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Exchequer and Wardrobe in the Later Years of Edward I

ONE OF THE great problems in Edward I's later years was that of finance. Campaigns in Wales, Gascony, Scotland and Flanders in the period from 1294 to 1297 imposed an immense burden on the administration, and the consequent demand for money, materials and men was the prime cause of the great constitutional crisis of 1297. After that, political difficulties made the raising of revenue hard: in 1300 the king found the concessions demanded in return for a grant of taxation unacceptable, and in 1303 the English merchants refused to grant an extra 3s 4d on each sack of wool exported, even though the aliens had agreed to this. The continuing struggle with the Scots meant a constant strain on such resources as were available. According to Tout Edward I bequeathed to his son a debt of just over £60,000 and a financial system dominated by the wardrobe whose accounts were showing a depressing series of deficits. These could only be met by constant loans from Italian merchants to whom the customs were pledged. The wars resulted in the removal of exchequer control over the wardrobe, and to quote Tout: 'Thus tamely and ingloriously the great king's reign came to an end with broken down finances'.¹

The financial dominance of the wardrobe was not attacked by the opposition in Edward's own day, either in 1297 or in the later crises, but in 1311 the Ordainers revived a demand of 1258, asking that all the revenues of the realm be paid into the exchequer. In Tout's words, the wardrobe 'was no longer to pose as a rival office of finance'.² But while Tout stressed the virtually complete independence of the wardrobe in the later years of Edward I, Willard came to a very different conclusion. He pointed out that after 1290 the exchequer came to exercise control that it had not possessed previously over taxes on moveables, clerical subsidies, and to a lesser extent customs revenues; that the proportion of wardrobe income not derived from the exchequer fell very sharply after the same date; and that the scope and quantity of exchequer records, in particular the memoranda rolls, simultaneously increased notably. Accordingly he concluded that far from this period being one of complete household dominance in the administration,

¹T. F. Tout, *Chapters in the Administrative History of Mediaeval England* (Manchester, 1920-33), ii. 129.

²*Ibid.*, p. 195.

it was government policy to bring all sources of revenue under the unitary control of the exchequer. Not only were all departments to account at the upper exchequer, but now the exchequer of receipt was to supervise all sources of revenue. The authors of this policy were, in his view, William March, treasurer from 1290 to 1295, and his successor Walter Langton. The demand of the Ordainers was therefore, he claimed, directly in line with the policy of Edward I's government.¹

The evidence of the way in which the financial system was operating in the early stages of the war with France which opened in 1294 very much supports Willard's interpretation. An impressive accumulation of treasure was built up by means of taxation, loans, the seizure of crusading funds and of private funds deposited in churches. This was distributed by the exchequer to the wardrobe in Wales, to royal paymasters in Gascony and to Edward's allies on the continent.² But such a policy could only operate when there was an ample supply of cash available. Once reserves were exhausted, as they soon were, the Crown faced the problem of how to speed up the collection of revenue, and how to obtain credit and anticipate future income.

In part, of course, loans could be obtained from foreign merchants, but Tout pointed in addition to the use of exchequer tallies as a means of assigning revenue in advance. He considered that, as was later practice, the exchequer handed tallies over to the wardrobe or to royal creditors, and they in turn exchanged them for cash with a sheriff, tax collector, or other receiver of royal revenue. The latter would then present the tally at the upper exchequer when making his final account, as evidence that payment had been made.³ But Jenkinson and Willard have shown that this procedure was hardly normal under Edward I, there being only one definite reference to its use, and that on the day before the king died.⁴ Furthermore, it was exchequer policy to ensure that its outgoings did not exceed its income. In the *jornalia* rolls details of receipts and issues were set side by side to check that they balanced.⁵ This policy effectively precluded the large-scale assignment of revenue by means of tallies prior to its collection.

Such scruples were not shared by the wardrobe, and the function that was later to be performed by tallies of assignment was at this time fulfilled by that department's use of written bills and debentures. The system was

¹J. F. Willard, 'An Exchequer Reform under Edward I', in *The Crusades and other Historical Essays presented to D. C. Munro*, ed. L. J. Paetow (New York, 1928), pp. 225-43.

²*Book of Prests of the King's Wardrobe for 1294-5*, ed. E. B. Fryde (Oxford, 1962), pp. l-liii.

³Tout, ii. 99-101.

⁴H. Jenkinson, 'Medieval tallies', *Archaeologia*, lxxiv (1925), 304-6; J. F. Willard, *Parliamentary Taxes on Personal Property, 1290 to 1334* (Cambridge, Mass., 1934), pp. 233-9. The tally of assignment of 6 July 1307 is also referred to by Tout, ii. 101 n. 1.

⁵The *Jornalia Rolls* are to be found in Public Record Office, E 405/1. All MSS. cited are in the Public Record Office.

set out in instructions issued to the collectors of the new custom in 1304. They were to pay their revenue to wardrobe officials in return for such documents, and when they came to account at the exchequer these would be exchanged for tallies with which they could proceed to make their final account.¹ Similar bills to those that the wardrobe issued to the customs collectors in return for cash might be given to creditors in lieu of payment: they could then try to exchange these for cash at the exchequer or with any collector of revenue.²

In the first half of Edward's reign the wardrobe received much of its revenue entirely independently of the exchequer, but with the reforms of the early twelve-nineties most of its receipts were allocated to it by the exchequer. Whereas in 1280-2 only two-fifths of the wardrobe receipts came from the exchequer, in the period of Walter Langton's keepership, from 1290 to 1295, the exchequer contribution was over eighty-four per cent of the total.³ This was seen by Willard as evidence of the increasing subjection of the wardrobe by the exchequer, but did the system in fact work in such a way? Revenue was allocated to the wardrobe by means of chancery writs of liberate for large sums, often as much as £20,000.⁴ Payments made to and on behalf of the wardrobe would then be charged to that department by the exchequer under this authorization. The issue and receipt rolls of the exchequer show that while some of the money so allocated was sent to the wardrobe in cash, the payments made to all those who exchanged wardrobe bills for cash at the exchequer or with any collector of revenue would also be accounted as part of the sum the wardrobe was entitled by the liberate writ to receive. So, of £43,589 16s 2d charged to the wardrobe at the exchequer in 1302-3,⁵ only £8,082 9s 10d was actually paid over in cash by the exchequer to the wardrobe.⁶ Such a system did not provide the exchequer with any effective form of control. The issue of the liberate writs was little more than an empty formality, for by Edward's closing years they were made out at the request of the wardrobe officials long after the expenditure that they were meant to cover had been incurred. Thus a writ for £11,405 14s 3½d, dated 1 October 1304 and enrolled under that date, was in fact only made out after Walter Bedwin brought a wardrobe bill requesting such a writ to the chancery in May 1307.⁷ There was no way in which the issue of wardrobe bills and debentures could be checked by the

¹K.R. Memoranda Roll, E 159/77 m. 61.

²C. Johnson, 'The system of account in the Wardrobe of Edward I', *Trans. Royal Hist. Soc.*, 4th ser., vi (1923), 55-6.

³Tout, ii. 89-90.

⁴*Ibid.*, p. 97; Johnson, *ubi supra*, p. 56.

⁵Draft wardrobe account, E 101/364/14.

⁶Tout, ii. 111 n. 2. The explanation there offered by Tout, with some hesitation, of the small totals shown by internal wardrobe accounts to be received from the exchequer is correct. These were the cash receipts, and not the total of what was allocated to the wardrobe at the exchequer.

⁷Liberate Roll, C 62/80. An example of such a bill requesting a liberate writ is in Ancient Correspondence, S.C. 1/28/60.

exchequer officials. In cases where the documents were exchanged for cash not at the exchequer but locally, with a sheriff or other official, the entries on the exchequer records were a mere accounting formality. This practice became increasingly common after 1299.¹

The consequence of this lack of proper exchequer control was that the wardrobe issued many creditors with bills that they were unable to exchange for cash. Such credit notes might even be used as a form of paper money on occasion. One such was made out in the closing years of Edward I's reign to William de Monteny of Leicester for the sum of £34 10s 8d, and sealed by the keeper of the wardrobe, John Droxford, and his controller Walter Bedwin. It was passed by William's wife to a Northampton man, Edmund of Winchester, and was given by him to two royal clerks in 1317 in return for horses and armour.² As more bills were being issued than could be met out of the royal revenue, the wardrobe accounts show for all but two years, 1296 and 1302, an excess of expenditure over receipts.³ Tout erroneously supposed that these deficits were met by borrowing from the Italian firm of the Frescobaldi.⁴ But loans were entered on the accounts as receipts, and what the deficits in fact represent are unpaid debts. The wardrobe kept records of such debts, and for the first three years of Droxford's keepership, from November 1295 until November 1298, they totalled £30,207 16s 8d,⁵ a figure very close to the overall deficit for the same period calculated by comparing receipts and expenditure and amounting to £30,219 2s 3d.⁶

The figure of the wardrobe debt at the end of the reign is given by Tout as £60,109 7s 3½d,⁷ and this is taken from an account book which shows over £38,000 owing on two *libri compotorum* which have not survived, £4,217 on the account of the prince of Wales's wardrobe, and in addition debts on the royal wardrobe accounts for the years from 1298 to 1307, the highest being that for 1307, just over £5,000, and the next some £2,000 for 1299.⁸ When compared with the deficits revealed by the overall accounts for the wardrobe in the same period, these figures are startlingly low. The explanation is that this list of debts was not drawn up at the close of the reign, but in the late thirteen-twenties, and that it represents the amounts still owing on Edward I's accounts at that date. No enrolled wardrobe accounts for the period 1298-1307 were ever made up, but early in Edward III's reign considerable

¹Such entries in the receipt rolls were normally marked in the margin *gard*. Tout, who misinterpreted them, noted the increase in such entries in the last years of Edward's reign (ii. 106). The practice was encouraged by the Crown in a decree of 1299, below, p. 6.

²Letter patent of Edmund of Winchester, E 101/362/18.

³Tout, vi. 80-3, summarizes the wardrobe accounts, and the table printed in the Appendix below provides some further particulars for the last seven years of the reign.

⁴Tout, ii. 122.

⁵Another version of this account gives £31,092 5s 2½d. Both accounts are in E 101/354/5.

⁶Tout, ii. 122.

⁷*Ibid.*, vi. 80-1.

⁸E 101/357/15.

efforts were made to get John Droxford to account properly for these years. He and his clerk John Ockham were frequently summoned to the exchequer, and he spent the Michaelmas term of 1328 drawing up his accounts, but no satisfactory solution was reached before his death early in 1329.¹ The book of debts was certainly written after 1325, for it contains a reference to the pipe roll of that year, and it seems most probable that it was the product of the work done on Edward I's accounts in 1328.

What, then, was the level of indebtedness at the close of Edward I's reign? Early in his son's reign it was found necessary to issue liberate writs totalling £118,000 to Droxford in his capacity as keeper of Edward I's wardrobe, of which £56,000 was due to the Frescobaldi for the loans they had advanced. In addition, liberate writs of £28,000 for the debts of the prince of Wales and £8,500 for sums owing to Gascons for their services during the French war were issued.² These debts were largely paid off during Edward II's reign, so they, together with the £60,000 apparently still unpaid in the late thirteen-twenties, would suggest a total debt in 1307 of £214,500. Some caution is necessary, however, for since the entries made under the authorization of the liberate writs were so often in effect simply the record of a *fait accompli*, it may be that some of the payments allocated to Droxford's liberate writs of Edward II's early years were in fact made in the old king's reign. But it would certainly appear that in 1307 the debt was at least £200,000.

Who went unpaid? This is obviously a most important question in considering the political implication of the bankruptcy of the government in Edward I's last years. Unfortunately no definitive answer can be given because of the deficiencies of the evidence. But it does not appear that any one class was victimized, or highly favoured. Regular royal officials, men with whom the Crown had only occasional dealings, humble servants, peasants whose food had been taken by the exercise of the royal right of prise, all had reason to regret the insolvency of the government. Even a man of the status of Aymer de Valence, to whom £2,240 was owed for the campaign against Bruce in 1307, had to wait until 1322 to obtain part payment.³ In the parliament of 1305 many petitions were presented demanding payment of debts. One was of a general nature, presented on behalf of all those owed money, whether for the seizure of funds deposited in churches in 1294, for prises of grain or wool, or for wages owed as a result of military service. Many were more specific. The judges asked that their fees, long in arrears, be paid; they received the unhelpful answer that the exchequer would pay them when it could. Requests were made that payments long overdue for building operations at Caernarvon should be made. Castle

¹K.R. Memoranda Rolls, E 159/103 mm. 185, 192d; E 159/104 mm. 180d, 181, 239; E 159/105 m. 183d.

²E.A. Bond, 'Extracts from the Liberate Rolls relative to loans supplied by Italian merchants in the 13th and 14th centuries', *Archaeologia*, xxviii (1840), 247-9; Droxford's *Omnes*, 1-16 Edw. II, E 101/373/22.

³E 101/373/22.

garrisons in Scotland petitioned for payment of arrears.¹ The number of such petitions shows that the problem of the government's indebtedness was a political as well as an administrative one.

How did the government react to these considerable administrative problems? Was it, as Tout suggested, by 'the strengthening of the resources and personnel of the wardrobe',² or was Willard correct in suggesting that the policy was to bring the financial administration under the unitary control of the exchequer? In the period of greatest financial need, 1294 to 1298, there is no sign that administrative changes were contemplated as a possible means of palliating the Crown's difficulties. When in 1296 John Droxford brought instructions to the exchequer stating that £5,000 a week would be required for the forthcoming campaign in Scotland, the only suggestions they contained were that the exchequer should take no vacations, that all Crown building operations with the exception of those in Wales and the painting of some rooms in Westminster should cease, and that as much as possible should be collected from taxes and customs duties, and any other convenient sources.³ But after the constitutional crisis of 1297 the king could not lightly suggest the imposition of further taxes, for fear of the political concessions that would be demanded in return. The situation demanded that every effort be made to raise what revenue there was as fast and efficiently as possible, before new demands were made.

In the summer of 1299 an order was issued that all sheriffs and royal ministers should pay their receipts directly over to the wardrobe.⁴ But in 1301 this policy was reversed, and in April writs ordered the sheriffs to pay their farms into the exchequer not at Michaelmas, as was normal, but at the end of June.⁵ The response to this was not very satisfactory, as the king made clear in furious letters to the exchequer. The barons replied that they had sent clerks all over the country to encourage the sheriffs to bring their money in soon, and that writs were being sent out daily to hasten them.⁶ But in spite of all these efforts, the sheriffs that year brought in only £3,006. This was a substantial increase over the £1,239 of the previous year,⁷ but it represented only a small fraction of the annual revenue from all sources. Yet it remained government policy to try to increase cash payments to the exchequer, and to discourage direct payment to the wardrobe or to Crown creditors. On 2 October 1304 the treasurer and barons of the exchequer announced to the sheriffs, bailiffs and others assembled for the Michaelmas proffer that in future no money was to be paid over directly to the wardrobe, save when specifically ordered in a royal writ. All normal payments were to

¹*Memoranda de Parlamento* 1305, ed. F. W. Maitland (Rolls Ser., 1893), pp. 49-50, 103-4, 129-30, 169-71.

²Tout, ii. 145.

³K.R. Memoranda Roll, E 159/69 m. 11d.

⁴Ancient Correspondence, S.C. 1/48/6.

⁵K.R. Memoranda Roll, E 159/74 m. 58d.

⁶K.R. Memoranda Roll, E 159/75 mm. 5, 7, 10.

⁷M. H. Mills, 'Adventus Vicecomitum, 1272-1307', *Eng. Hist. Rev.*, xxxviii (1923), 340.

be made to the exchequer.¹ The policy of the treasurer, Walter Langton, was clear: the exchequer should be restored to its rightful position of dominance. That popular demand was also that the exchequer take a more active role in the financial administration can be deduced from the fact that in March 1305 liberate writs were issued on behalf of a number of men for their services in Scotland.² Normally such debts would have been the responsibility of the wardrobe to pay out of the funds allocated in the large liberate writs made out to the keeper. But political pressure at the parliament then in session presumably prompted the change.

It was not only by trying to have all receipts paid into the exchequer that that department tried to assert its dominance in the last years of Edward I's reign. In 1301 the treasurer and barons tried to control the distribution of the proceeds of the tax of a fifteenth on moveables granted in that year. £16,123 9s 9d was promised out of the tax by the exchequer to various creditors, notably the Frescobaldi, the Welsh troops who served with the prince of Wales in Scotland that year and some Gascon merchants whose wine had been taken by the Crown.³ All that the exchequer could do was to order the tax collectors to make these payments: it did not issue the creditors with receipts or tallies which could be exchanged for cash with the collectors. There was difficulty in getting the orders obeyed. The Gascons received little if any of their money, so they pestered the king, who ordered fresh assignments to be made to them.⁴ The Welsh were to be paid all the receipts in Gloucestershire, Worcestershire, Nottinghamshire and Derbyshire, and in January 1303 the collectors were threatened with imprisonment if they did not obey orders. By Michaelmas that year the Derbyshire collectors had paid £272 2s 11d to the Welsh out of an assessment of £430 19s 5½d.⁵ It was impossible for the whole sum to go to them, as £52 4s 8½d had already been paid out to those who had provided victuals for the 1301 campaign. From the other three counties the Welsh paymasters received £2,543 5s 4½d.⁶ They should have received in all £4,000, but the wardrobe had appropriated funds that should have been paid over to them.⁷ Only the influential Frescobaldi were able to obtain nearly all of the money assigned them: they received at least £5,700 of the £6,000 they were promised out of the three instalments of the tax.⁸ So this attempt by the exchequer to allocate expenditure was only a partial success. The problem was that simply to issue writs ordering collectors of taxes to make payments to specified individuals was not a very effective method of assigning revenue and it was accordingly abandoned. It was only when the exchequer began to

¹K.R. Memoranda Roll, E 159/78 m. 20.

²Liberate Roll, C 62/81.

³K.R. Memoranda Roll, E 159/75 m. 10.

⁴*Cal. Close Rolls 1302-7*, p. 12.

⁵K.R. Memoranda Roll, E 159/77 m. 67d; J. F. Willard, 'The taxes upon moveables of the reign of Edward I', *Eng. Hist. Rev.*, xxviii (1913), 521.

⁶E 101/373/22.

⁷Wardrobe receipt book, E 101/360/25.

⁸Exchequer Issue Rolls, E 403/112, 114, 125, 128, 132.

issue tallies to creditors which could be exchanged with collectors for cash that the department acquired an efficient method of assignment. And then of course the problem was that more tallies came to be issued than could be met by the available revenue. An additional difficulty was that shortly after ordering the assignments in 1301 the treasurer, Walter Langton, left the country. John Droxford was appointed in late August to act as his deputy.¹ It seems, however, that Droxford did not give the exchequer the attention that its regular officials felt it needed. He was severely criticized in July 1302 by Philip de Willoughby, chancellor of the exchequer, who complained that only he and one other man remained in the exchequer at York, *hac prophana civitate*, and that they could not perform their duties in the absence of proper instructions from Droxford. Willoughby was subsequently appointed to take Droxford's place.²

The departure of Langton abroad again in 1305 prompted a final attempt at reform of the financial administration. Detailed instructions were laid down in October for his deputy, once again Droxford. It was ordained that each week £250 was to be sent to the royal household, and £43 13s 4d to that of the prince. Payment of £466 13s 4d for fees and robes of the knights and squires of the two households was authorized, and a list of debts that were to be paid was drawn up. This effort to plan expenditure and systematize payments did not last: by January 1306 payments to the royal household had reverted to their customary irregularity in frequency and quantity.³ But although the reform was unsuccessful, the attempt does provide evidence of what the government was trying to achieve.

The financial system envisaged in the reorganization of the exchequer in the early twelve-nineties, under March, was a perfectly logical one. The exchequer was to have complete control over the receipt of revenue, and would be responsible for distributing funds to the departments in charge of expenditure, notably the wardrobe, but also the paymasters operating in Gascony and those responsible for distributing subsidies in the Low Countries. But inevitably with the pressures of war the flaws in the system were revealed. The exchequer was not prepared to issue instruments of credit as assignments on future income on any scale, but the wardrobe was less cautious. Faced with expenses in excess of receipts, it issued bills and debentures to its many creditors, and the Crown's debts mounted steadily. The exchequer had no means of controlling the wardrobe expenditure. For the years after 1298 it did not even see the wardrobe's final accounts, for such was the pressure of business and the condition of the records that the keeper did not present them. One incidental result of this situation was that it was impossible to produce any sort of budget.⁴

¹K.R. Memoranda Roll, E 159/75 m. 4.

²Ancient Correspondence, S.C. 1/8/112a; L.T.R. Memoranda Roll, E 368/73 m. 25d.

³J. F. Willard, 'Ordinances for the guidance of a Deputy Treasurer, 22 October 1305', *Eng. Hist. Rev.*, xlviii (1933), 84-9.

⁴M. C. Prestwich, *War, Politics and Finance under Edward I* (1972), pp. 204-23.

Although Tout was mistaken in his belief that tallies were used extensively as a means of credit in Edward I's reign, and although he failed to discern the purpose of the exchequer reforms of the early twelve-nineties, the picture he drew of the complete dominance of the wardrobe in the king's last years was by no means inaccurate. But this was a situation forced on an unwilling administration by the pressing demands of war, and under Langton's inspiration attempts were made to revert to a policy of proper exchequer control. The demand that all the issues of the realm be paid into the exchequer would not have been found unacceptable by Edward I's officials, and this may help to explain why this was not one of the opposition's cries until 1311. The problem facing Langton was that such a policy was not practicable. It was necessary, given the political problems involved in raising additional revenue, to allow the wardrobe to collect such revenue as was available directly, and for it to issue promises of future payment when there was no cash. The exchequer could not control such a system until it had developed the practice of assignment by tally in the course of Edward II's reign. For the last years of Edward I the situation was one of an exchequer unable to curb a huge and increasing debt incurred by the wardrobe, a burden which added substantially to the difficulties of the next reign.

MICHAEL PRESTWICH

APPENDIX. *See overleaf.*

APPENDIX

The following table shows the figures of exchequer receipt for the period for which they are available from the *jornalia* rolls, and summarizes the wardrobe accounts for the period 1299-1306.

RECEIPTS

	<i>Exchequer (jornalia rolls)</i> ¹	<i>Wardrobe receipt from exchequer</i> ²	<i>Total wardrobe receipt</i>
1299-1300 ³		£49,048 19s 10d	£58,155 16s 2d
1300-1		£39,031 16s 2d	£47,550 12s 11d
1301-2	£42,395 17s 8½d	£43,316 16s 7d ⁴	£72,969 6s 1½d ⁴
1302-3	£55,722 4s 2½d	£43,589 16s 2d ⁵	£52,195 14s 0½d ⁵
1303-4	£29,663 17s 4½d		
1304-5	£51,849 12s 7½d		
1305-6	£48,280 8s 2d	£50,010 0s 0d	£64,128 3s 1½d
1306-7	£59,089 13s 9d		

WARDROBE EXPENSES

	<i>Household</i>	<i>Foreign</i>	<i>Total</i>
1299-1300	£10,926 5s 4d ⁶	£53,178 15s 1d ⁶	£64,105 0s 5d ⁶
1300-1	£9,570 7s 7d	£67,721 0s 0½d	£77,291 7s 7½d
1301-2	£12,021 14s 1d ⁴	£49,927 12s 4½d ⁴	£61,949 6s 5½d ⁴
1302-3	£10,788 18s 0½d ⁵	£53,247 13s 0½d ⁵	£64,036 11s 1d ⁵
1303-4	£8,756 18s 7½d	£60,201 6s 7½d	£68,958 5s 3d
1304-5			
1305-6	£11,269 4s 6d	£66,049 11s 4½d	£77,318 15s 10½d

¹E405/18, 22, 24, 26, 29, 33, 37, 39, 43, 47, 49.

²Unless otherwise specified, figures for the wardrobe are taken from Tout, vi. 82-3.

³In the case of the exchequer the accounts run from Michaelmas to Michaelmas, whereas the wardrobe accounts are from 20 Nov. to 19 Nov., following the regnal year.

⁴Draft wardrobe final account, E101/360/25. This also gives details for 1300-1, showing the total of expenses as £77,171 1s 9½d, which differs slightly from that given by the wardrobe book used by Tout.

⁵Draft wardrobe final account, E101/364/14.

⁶Calculated from *Liber Quotidianus Contrarotulatoris Garderobiae*, 1299-1300 (London, 1787).

The 'Middle Party' and the Negotiating of the Treaty of Leake, August 1318: a Reinterpretation¹

THE HISTORY of the negotiations which preceded the treaty of Leake of 9 August 1318 between Edward II and his baronial opponent, Thomas earl of Lancaster, has traditionally been seen in relation to the view that the negotiations were conducted by a group of magnates, led by the earl of Pembroke, which historians have called the 'middle party'.² The party's alleged object was to engineer a settlement between the king and the earl of Lancaster as a means of installing itself in power at the head of the royal administration and thereby both restraining the king and excluding Lancaster from a share in government. According to this interpretation these aims were achieved by the treaty of Leake. The theory has been a very useful one since it has the merit of bringing some coherence to a complex and confusing part of a particularly complex and confusing reign. But if the reality of the 'middle party' were ever to be questioned, then clearly the interpretation of the treaty of Leake negotiations would also have to be re-examined. This article is an attempt to assess the validity of the 'middle party' interpretation and to apply the results of this to the Leake negotiations.

The 'middle party' view was based initially on a single document, an indenture dated 24 November 1317 and made between three of the most prominent English magnates of the time: on the one hand the earl of Pembroke and Bartholomew de Badlesmere and on the other Roger Damory.³ Under this agreement Damory promised to do his best to persuade the king to allow himself to be guided by Pembroke and Badlesmere and to trust their advice above that of anyone else. Damory himself would also follow their advice and not oppose it in any way. He also

¹This article is based on material contained in my book, *Aymer de Valence Earl of Pembroke, 1307-24* (Oxford, 1972).

²Prior to 1970 the most detailed accounts of the Leake negotiations were those of Sir Goronwy Edwards, 'The negotiating of the treaty of Leake, 1318', in *Essays in History Presented to R. L. Poole*, ed. H. W. C. Davis (Oxford, 1927), and of Professor B. Wilkinson, 'The negotiations preceding the "Treaty" of Leake, August 1318', in *Studies in Medieval History Presented to F. M. Powicke*, ed. R. W. Hunt and others (Oxford, 1948). These accounts may now be supplemented by the discussions in chapter vi of Dr. J. R. Maddicott's book, *Thomas of Lancaster, 1307-22* (Oxford, 1970), and in chapter v of Phillips, *Aymer de Valence*.

³Public Record Office, E163/4/6. A transcript appears in J. C. Davies, *The Baronial Opposition to Edward II* (Cambridge, 1918), app. 42. A fresh transcript is included in Phillips, app. 4.

promised not to procure or consent to the king's granting more than £20 of land without the knowledge and agreement of Pembroke and Badlesmere; nor would he connive at or consent to any action by the king which might be prejudicial to himself or to his crown. Damory would also warn Pembroke and Badlesmere against anyone he discovered attempting to lessen the king's opinion of them. Lastly Damory bound himself to the agreement by oath and by a pledge of £10,000. In their turn Pembroke and Badlesmere promised to defend and maintain Damory against all men, saving only their loyalty to the king, provided that Damory kept his part of the agreement.¹

This indenture has been in print since 1830² but the first historian to make use of it was William Stubbs in his *Constitutional History* published in 1875. In his view the indenture was the basis of an alliance between Pembroke and Badlesmere whom he saw as enemies of the earl of Lancaster, and Roger Damory who was an aspirant through his wife to the lands of the Gloucester earldom. The purpose of the alliance was to form 'a middle party between Lancaster as the head of the old baronial faction, and the king sustained by the Despensers and the personal adherents of the royal house' and so gain 'supreme influence in the royal council'.³ Stubbs developed his ideas further in 1882 in his historical introduction to the *Chronicles of the Reigns of Edward I and Edward II*. He now thought that throughout the reign of Edward II there were three political groupings: 'a royal party comprising a few powerful bishops and barons'; 'a party under the headship of the earl of Lancaster which was hereditarily opposed to royal aggression'; and a third 'mediating party...of politiques without any affection for the king or any aspirations for freedom, which was simply anxious to gain and hold power'. At one stage this mediating party was led by Pembroke, Badlesmere and Damory whose indenture of 1317 was the instrument of their party's formal creation.⁴

However, it was left to T. F. Tout to adopt the 'middle party' idea and develop it to a point where it appeared to be an interpretation which other historians might reliably follow. Tout used the term 'middle party' as early as 1889 in his *Dictionary of National Biography* article on Edward II, and then expanded his ideas in his volume of *The Political History of England* published in 1905,⁵ but it was not until he gave the Ford Lectures at Oxford in 1913 that his interpretation reached its definitive form. Here he argued that the 'middle party' began to develop late in 1316 after Lancaster's failure to provide stable government during his period as head of the royal council, that it then negotiated the treaty of Leake in 1318 and finally governed until 1321 when the crisis over the Despensers blew the whole

¹ See p. 11, n. 3 above.

² *Parliamentary Writs and Writs of Military Summons*, ed. F. Palgrave (1827-34), II. ii, app., p. 120.

³ W. Stubbs, *Constitutional History of England* (Oxford, 1875), II. 342.

⁴ *Chronicles of the Reigns of Edward I and Edward II*, ed. W. Stubbs (Rolls Ser., 1882-3), I, pp. cxiii-cxiv.

⁵ T. F. Tout, *The Political History of England, 1216-1377* (1905), pp. 272-4.

structure apart.¹ Reversing his 1905 opinion, Tout considered that until 1316 Badlesmere was closely associated with Lancaster but then broke with him because of his political failure in that year. At about this same time Pembroke was re-emerging in the forefront of politics and in early 1317 he and Badlesmere went on a royal embassy to the papal curia at Avignon where, Tout supposed, the two men discussed the English situation and began to reach some common viewpoint. But the formation of any closer alliance was then delayed by Pembroke's capture in France where he was held to ransom while returning from Avignon. In the meantime Badlesmere, who had made one last abortive effort to co-operate with Lancaster, was ready to act with Pembroke when the latter finally came home and before the end of the summer of 1317 the two had come to a perfect understanding. In Tout's opinion

their aim must now have been to establish a political party, which, while accepting the constitutional standpoint of the ordainers, would save the king and the kingdom from Lancaster, and restore Edward to dignity and some measure of power, on the condition that he amended his ways and ruled by their advice.

In November 1317 they began to create a political following among the baronage by their indenture with Roger Damory which, Tout said, 'affords clear evidence of the formal and legal character it was sought to give the new party'. As to the indenture's purpose, Tout claimed that 'though Lancaster is nowhere mentioned in the bond, the compact has no meaning unless it be regarded as an organised effort to replace earl Thomas by earl Aymer as the king's chief counsellor'. The party is then said to have grown in strength through the adhesion of members of the royal household, some of the leading magnates and a number of the prelates, with the result that 'by the spring of 1318 the king was entirely in the hands of Pembroke and his allies'. The king was once again in tutelage, 'but his tutelage was now to be of a milder and more respectful character'.² This, briefly, is what Tout understood by the 'middle party'. His interpretation is an attractive one, based as it is on the apparent simplicity of an alliance between two erstwhile political opponents, Pembroke and Badlesmere, and the completion of this union by the indenture of November 1317.

The last major statement of the 'middle party' theory was made by J. Conway Davies in his *Baronial Opposition to Edward II* (1918). Davies made considerable use of Tout's arguments of five years before but his work is a far more detailed study of Edward II's reign and the 'middle party' may therefore be said to have become a joint Tout-Davies interpretation. Davies accepted Tout's view that a 'middle party' began to develop during the Avignon mission of 1317;³ and once again he saw the indenture with

¹T. F. Tout, *The Place of the Reign of Edward II in English History* (Manchester, 1914), pp. 111-12, 144-5.

²*Ibid.*, pp. 111-18. See Tout's *Political History of England*, p. 273, for his earlier opinion of Badlesmere.

³Davies, p. 429.

Damory as the formal starting-point of the new party,¹ after which it consolidated itself in power in 1318 and controlled the royal government until 1321.² Davies's views differed in some details from those of Tout,³ but the only significant difference is that he placed more importance on Pembroke's major part in the royal government between 1312 and 1314, on his personal moderation and friendship towards the king and the latter's consequent willingness to co-operate with him.⁴

Since Tout and Davies published their conclusions the 'middle party' has been a regular part of writings on this period, although a careful study of later publications reveals slight variations and developments on points of detail.⁵ But, useful as the theory has been, it would be surprising if historians did not have some reservations about it. In the first place the notion of an organized political group seems an anachronism in an era when politics were intensely personal in nature. Secondly it is not at all clear how the 'middle party' actually came together after the initial indenture with Roger Damory. The argument is apparently based on the assumption that the indenture really was the foundation of a party and once this is accepted, the rest follows without much further discussion. Even supposing that Pembroke and Badlesmere had made indentures with other magnates besides Damory,⁶ the idea of a 'middle party' becomes strained when practically every prelate and magnate of importance, except for Lancaster, appears to have been a member. A third and more important difficulty is that there is an unresolved tension between the views of Tout on the one hand and of Stubbs and Davies on the other. Stubbs's comment that Pembroke 'was personally faithful to the king' is in partial conflict with his own notion that there was a 'mediating party ... of politiques, without any affection for the king'.⁷ Similarly Davies's opinion that Pembroke was on close personal terms with the king seems, if correct, to imply the need for some interpretation of Pembroke's activities other than the 'middle party' framework provided by Tout.⁸

¹ Davies, pp. 433-4. Davies's view of the indenture is brought out in the heading given to the text in app. 42 where it is described as an 'indenture to restrain the king'.

² *Ibid.*, p. 437.

³ He thought, for example, that Tout had overemphasized Badlesmere's earlier links with Lancaster and he himself included the earl of Hereford as a founder member of the party (*ibid.*, pp. 428-9).

⁴ *Ibid.*, pp. 110-12, 430, 440-2.

⁵ See, for example, Edwards, p. 377, where he divides the 'middle party' into right and left wings, and Wilkinson, pp. 338-9, where he says 'the outlook of the "middle party" was substantially the same as that of its clerical members'. The latest writer to employ the term 'middle party' is Dr. Maddicott in his book, *Thomas of Lancaster*. His usage is, however, very different from that of previous scholars. For a brief discussion of this point see p. 26, n. 2.

⁶ Davies, p. 435, suggests this possibility.

⁷ *Chronicles of the Reigns of Edw. I and Edw. II*, i, pp. cxiii-cxiv.

⁸ Davies's view is particularly at variance with Tout's statement that Pembroke and the earl of Surrey had joined in the royal government in 1312 only because they 'hated Lancaster and Warwick more bitterly than they despised the king' (Tout, *Place of the Reign*, p. 99).

There are therefore good general grounds for taking a closer look at the 'middle party' interpretation and the natural place to start is with the famous indenture of 24 November 1317. But this at once raises wider issues. What was the general political background against which the indenture was set; what were the relations of the alleged founders of the 'middle party', Pembroke and Badlesmere, with the king, with Lancaster and with each other; and where does Roger Damory fit into the picture? When these questions have been answered it may be possible to discover if there was indeed a 'middle party'.

The political situation in the autumn of 1317 was dominated by the bad relations between the king and the earl of Lancaster, as had been the case ever since Lancaster's part in the execution of the royal favourite Gaveston in June 1312. Without exaggeration, Edward II and Lancaster loathed and despised each other and there was therefore a serious and constant threat to the political stability of England. Lancaster's political importance had grown after the royal defeat at Bannockburn in Scotland in 1314 until in February 1316 he was appointed as head of the royal council. It is possible that he found the burdens of responsible office too great or that he was unable to deal effectively with fellow councillors who were all sympathetic to the king, but, whatever the explanation, he had apparently withdrawn from the council by the end of April and never returned.¹ The problem of how to reconcile him with the king was therefore once again acute and the situation was also starting to be aggravated by the growing importance at court of new royal favourites who were to become the object of a special fear and detestation on the part of Lancaster.² According to the well-informed author of the *Vita Edwardi Secundi* Lancaster's relations with the king were in a desperate state by the end of 1316.³

But even at this point attempts were still being made to patch up a working settlement between the king and Lancaster. It has never been fully realized that the negotiations for the treaty of Leake in 1318 formed the climax of a series of negotiations which had begun in and continued throughout 1317. The renewed efforts to establish contact between the two sides began with a royal council held at Westminster on 15 April 1317. Lancaster and his retainer and close associate, Robert de Holland, were both summoned and to give added point to the summons two special royal envoys were sent to see Lancaster at Castle Donington in Leicestershire.⁴ Lancaster did not however attend and, despite the sending of another royal envoy to Castle Donington on 21 April, refused to co-operate.⁵ Any remaining chance of securing Lancaster's co-operation was then shattered on 9 May by the

¹ See Phillips, pp. 97-9.

² *Flores Historiarum*, ed. H. R. Luard (Rolls Ser., 1890), iii. 178.

³ *Vita Edwardi Secundi*, ed. N. Denholm-Young (1957), p. 75.

⁴ *Calendar of Close Rolls 1313-18*, p. 459; Society of Antiquaries, MS. 120 fo. 26; Phillips, pp. 118-19. On the relations between Lancaster and Holland see J. R. Maddicott, 'Thomas of Lancaster and Sir Robert Holland: a study in noble patronage', *Eng. Hist. Rev.*, lxxxvi (1971), 449-72.

⁵ Soc. Antiqu., MS. 120 fo. 25v.

abduction of his wife by the earl of Surrey. There is no direct evidence that either the king or persons close to him were involved in this act of folly but Lancaster not unnaturally believed that this was the case, and his relations with the king reached a new level of bitterness.¹ This deadlock was apparently broken by the arrival at the end of June of two papal envoys, Cardinals Gaucelin d'Eauze and Luke Fieschi, whose original intention was to make peace between England and Scotland but who now applied themselves to finding a solution to England's internal problems. It is probably no coincidence therefore that on 1 July another great council was summoned to meet at Nottingham on 18 July. Once again Lancaster was asked to attend² and once again he failed to appear, but this time he wrote a letter explaining his absence which helps to pinpoint the issues between him and the king. In this letter he justified his withdrawal from royal affairs since 1316 by accusing the king of failing to observe the Ordinances, but, reading between the lines, it seems that Lancaster's real cause of contention was rather the position at court of the latest royal favourites.³ This view is confirmed by the *Vita Edwardi Secundi*, usually well informed on such matters, which says that Lancaster refused to come to court because of his fear of the favourites and their alleged plots against him, and that he would attend only when these men were removed.⁴ Lancaster might well fear the favourites since, according to one unidentified chronicler, they had openly accused him of treachery at a royal council held at Clarendon in February 1317 when they had allegedly also planned the abduction of his wife.⁵ It is apparent then that, underlying all Lancaster's talk of the Ordinances and their enforcement, the real problem in 1317 and 1318 was his long-standing distrust of the king and fear of his favourites.⁶

Despite the failure of the Nottingham conference, a further attempt was soon made to contact Lancaster when, some time in August 1317, a delegation went to visit him at Pontefract in Yorkshire. But once again all hope of agreement broke down on Lancaster's fear of treachery if he ever came to court.⁷ One last effort to negotiate with him was however made at the mediation of two papal envoys and took place in September at York where the king had been gathering troops in case of an armed clash with Lancaster.

¹*Nicolai Triveti Annalium Continuatio*, ed. A. Hall (Oxford, 1722), pp. 20-2 (hereafter cited as Trivet); *Flores Historiarum*, iii. 178.

²*C.Cl.R.* 1313-18, p. 482.

³*Gesta Edwardi de Carnarvan*, in *Chronicles of the Reigns of Edw. I and Edw. II*, ii. 50-2; *Adae Murimuth Continuatio Chronicarum*, ed. E. M. Thompson (Rolls Ser., 1889), pp. 271-4.

⁴*Vita Edwardi Secundi*, p. 80.

⁵Trivet, p. 20; *Thomae Walsingham Historia Anglicana*, ed. H. T. Riley (Rolls Ser., 1863-4), i. 148, 150.

⁶This explanation of the motives for Lancaster's behaviour differs considerably from that of Dr. Maddicott who lays greater emphasis on Lancaster's demand for the enforcement of the Ordinances (*Thomas of Lancaster*, pp. 198-202). For further discussion of the importance of the Ordinances in the politics of the reign see Phillips, pp. 285-7.

⁷Trivet, p. 23; *Vita Edwardi Secundi*, p. 81.

This time the negotiations succeeded and, after the king had guaranteed his safe conduct, Lancaster agreed to attend parliament whenever it was next held.¹ But the high hopes raised by this agreement were shattered early in October: as the king and his followers were passing Lancaster's castle of Pontefract on their way south the king took advantage of the castle's weakly defended state to threaten an attack and was only with difficulty restrained from doing so.² There is no specific evidence that the royal favourites had a hand in this episode but it is very likely in view of their earlier activities that they did persuade the king to use the opportunity to rid himself of his greatest enemy. From Lancaster's point of view his previous fears were now confirmed and his immediate reaction was to attack the Yorkshire castles of the earl of Surrey in retaliation for his wife's seizure in May. At about the same time his men also gained control of the royal castle of Knaresborough in Yorkshire and Alton castle in Staffordshire which had belonged to Theobald de Verdon.³

The year 1317 had therefore been marked by successive attempts by the royal council to secure the co-operation of Lancaster. Each of these efforts had been frustrated by the latter's distrust of the king and, more particularly, by his fear of the royal favourites, a fear which was amply justified. These favourites were clearly men of a great if negative importance and it is therefore necessary to try to identify them. Fortunately there is no difficulty in doing this. The favourites of whom Lancaster was especially afraid were three men of recent rise to royal favour, all of them knights of the royal household. These were William de Montacute, Hugh Audley the Younger, and last but very far from least, a man who has already been mentioned, Roger Damory. These were the courtiers who had described Lancaster as a traitor at the Clarendon council and were themselves described by the pro-Lancastrian author of the *Flores Historiarum* as even worse than Gaveston had been.⁴ Since it was Lancaster's constant demand that they should be removed from the king's household, they had every incentive to aggravate relations between the king and Lancaster and to sabotage all attempts at a political settlement.⁵ It is also possible that they

¹Trivet, p. 23; *Parliamentary Writs*, II. ii. 171. An undated agreement between Lancaster and certain unnamed prelates, in which Lancaster promised to attend parliament, is preserved in Bodleian Libr., MS. Dodsworth 8 p. 262 and may possibly belong to these negotiations: cf. Maddicott, *Thomas of Lancaster*, pp. 208-9. On the whole, however, it is more likely to belong to the discussions held at Leicester in Apr. 1318. For a consideration of the date of this agreement and for the full text see Phillips, pp. 157-8 and app. 4.

²*Vita Edwardi Secundi*, p. 82; *Flores Historiarum*, iii. 181; Trivet, p. 24.

³C.Cl.R. 1313-18, p. 575; C.Cl.R. 1318-23, p. 270.

⁴*Flores Historiarum*, iii. 178.

⁵In June 1317 all three favourites made a series of £6,000 bonds with Lancaster's long-standing enemy, Hugh Despenser the Elder, and with his son, Hugh Despenser the Younger (C.Cl.R. 1313-18, p. 477; P.R.O., E 163/3/6 m. 1). The purpose of the bonds was not stated but in view of their timing they may have been intended for mutual security in the event of an attack by Lancaster on their position at court. See Maddicott, *Thomas of Lancaster*, pp. 195-6; Phillips, p. 133.

hoped to engineer Lancaster's destruction in order to share out his forfeited lands among themselves. This is of course a speculative remark but in July 1318, during the negotiations before the treaty of Leake, Lancaster accused Damory and Montacute of having conspired to kill him.¹ It is also significant that Damory, Audley and Montacute were forced to recognize debts of nearly £1,700 to Lancaster at the York Parliament of 1318 which followed the Leake settlement, evidently as damages for their real or attempted injuries to Lancaster.²

All three favourites came from families associated with royal service and probably owed their initial place in the royal household largely to this fact, but once in the household their rise was due entirely to royal favour.³ Montacute became Steward of the household late in 1316, while early in 1317 Audley married one of the heiresses to the lands of the Gloucester earldom which had been awaiting partition since the death of the last Clare earl of Gloucester at Bannockburn in 1314.

For the present argument the most interesting of the favourites is Roger Damory who had first come to royal notice by his conduct at Bannockburn.⁴ In January 1317 he contracted to serve the king for life in return for 200 marks a year and in April 1317 he married the last of the Clare heiresses with the king's consent and connivance, shortly after the order had been given to begin the long-delayed partition of the Gloucester earldom.⁵ Damory, along with his two colleagues, was therefore more than a mere favourite since he was on the point of becoming a magnate of almost the front rank, and this fact undoubtedly increased Lancaster's hatred of him in 1317. When Lancaster seized control of the castles of Knaresborough and Alton in October 1317 he was in fact directly attacking Damory who had custody of both of them at that time.⁶ This strongly suggests that Lancaster regarded Damory as the most dangerous of the three favourites and the man chiefly responsible for the king's breach of the York agreement of September 1317. Damory's political position does not therefore fit the description given of it by Tout and Davies. Far from wanting to acquire political power through an alliance with other magnates, he was a creature of the king who owed his position to royal favour and was a potent cause of

¹Hist. MSS. Comm., *Various Collections*, i. 267.

²These were respectively sums of 906 marks 7s 4d, 1,299 marks 6s 6d, 413 marks 4s 0d (*C.Cl.R.* 1318-23, pp. 109-10).

³For details of their careers see Phillips, pp. 131-2 (where I have wrongly described Montacute as the father of the future earl of Somerset instead of earl of Salisbury); Maddicott, *Thomas of Lancaster*, pp. 193-5.

⁴*Calendar of Patent Rolls 1313-17*, p. 677. Like Badlesmere, Damory seems to have begun his career as a retainer of the earl of Gloucester and was probably in his company at Bannockburn (Maddicott, *Thomas of Lancaster*, p. 193).

⁵P.R.O., E403/180 m. 3; *C.P.R.* 1313-17, pp. 641, 644; *Rotuli Parliamentorum*, i. 355.

⁶*C.Cl.R.* 1318-23, p. 270; *C.Cl.R.* 1313-18, p. 575; *Calendar of Fine Rolls 1307-19*, pp. 225, 316. To protect Damory from further attack the king took control of his lands from 18 Oct. until early Dec. (*C.P.R.* 1317-21, pp. 34, 58). There is no evidence that Lancaster also attacked Audley and Montacute.

political disturbance through his influence over the king. Damory's alleged role as a founder member of a 'middle party' is therefore implausible.

We must now turn to the other two founders of the 'middle party', beginning with the earl of Pembroke. When the facts of Pembroke's career are examined in detail¹ it is soon clear that Tout's view of him as contemptuous of the king and unscrupulous in his pursuit of power needs to be modified considerably but that Davies was essentially correct in emphasizing Pembroke's close personal relations with the king. Davies, however, underestimated the extent of Pembroke's loyalty and its implications for the 'middle party' theory. From the very earliest days of his career under Edward I, Pembroke's service to the Crown was most thorough, and loyalty to the person of the king and the interests of the monarchy was such a strong feature of his character, along with a moderate attitude at times of political crisis, that he would have to be very hard pressed indeed to appear to compromise that loyalty. Even in the early days of Edward II's reign when Gaveston's hold over the king was already evident, Pembroke's initial reaction to the growing demand for administrative reforms was to try and achieve them from within the royal circle before the king was forced to give way under pressure from his opponents. Pembroke and other magnates attempted to do this in a little known agreement made at Boulogne on 31 January 1308 at the time of the king's marriage there.² Pembroke personally regarded Gaveston with antipathy but his loyalty to the king so far overcame this feeling that in March 1309 he went to Avignon to secure papal approval for Gaveston's return from exile in Ireland. It was Pembroke's realization that Gaveston was the major barrier to much needed reforms of the royal administration that finally made him side with the king's most bitter personal opponents, Warwick and Lancaster, and become an Ordainer in 1310. Gaveston was therefore also the major barrier to Pembroke's own continued co-operation with the king, and when Gaveston was seized from Pembroke's custody and executed by Warwick and Lancaster in June 1312, Gaveston's removal, combined with Pembroke's bitterness towards his former Ordainer colleagues, brought Pembroke back to the king's side. The king, who in 1310 had very reluctantly accepted the fact of Pembroke's desertion,³ was evidently delighted to regain the services of such a loyal and tried councillor and for the next two years Pembroke was the virtual head of the council, taking a leading part in the formation and execution of royal policy.⁴ After

¹ See Phillips, pp. 141-3 and Conclusion.

² Bodl. Libr., MS. Dugdale 18 fos. 1, 80. Those involved were the bishop of Durham, earls of Lincoln, Surrey, Pembroke and Hereford, Robert Clifford, Payn Tybetot, Henry de Grey, John Botetourt and John de Berwick. For the text and a discussion of its significance see Phillips, pp. 26-8 and app. 4. Dr. Maddicott, however, interprets the agreement as evidence of the formation of opposition to the king and to Gaveston (*Thomas of Lancaster*, pp. 72-3).

³ For this episode and the foregoing discussion see Phillips, pp. 29-37.

⁴ *Ibid.*, ch. ii.

Lancaster's return to power, following the royal defeat at Bannockburn in 1314, Pembroke had to take a less important position but his utility as an administrator and his political moderation were such that he was never wholly excluded from office even when Lancaster became head of the council early in 1316. When Lancaster deserted his post at the end of April 1316 it was therefore natural that the king should turn to his old friend and ally to fill the vacuum and by the end of 1316 Pembroke had regained much of his old authority.¹

Pembroke was absent from England during the initial attempts to contact Lancaster early in 1317 but there is no doubt that after his return in June he was prominent in the remaining negotiations. Pembroke was one of the delegation who visited Lancaster at Pontefract; he urged the king to negotiate with Lancaster at York in September and personally guaranteed Lancaster's safe conduct; and it was he who finally persuaded the king not to attack Pontefract early in October.² It is clear that Pembroke was basically always a royalist and that through his inclinations and actions, as well as through his lack of the necessary ability and personal ambition, he was an unlikely leader of a 'middle party' bent on securing political power.³ This assessment of Pembroke's role becomes almost a certainty with the discovery that on 1 November 1317, only three weeks before the famous indenture with Damory that allegedly formed the 'middle party', Pembroke bound himself even more closely and specifically to the king in another indenture in which he promised to serve the king in peace and war for life in return for 500 marks of land and an annual peacetime fee of over 1,000 marks. In wartime he was to receive a fee of 2,000 marks and follow the king with a retinue of 200 men-at-arms.⁴

Examination of the career of Badlesmere, the other founder member of the 'middle party', also makes it necessary to modify earlier opinions. Badlesmere was never in fact at any time an ally of Lancaster.⁵ Instead his original associations were with the staunchly royalist earl of Gloucester and after the latter's death in 1314 he entered royal service where he rose fast, apparently because of his ability. By the end of 1316 he too, like Pembroke, was an important member of the royal council.⁶ He was therefore closely connected with the Crown and with Pembroke long before the indenture with Damory and, as Pembroke was to do, he established a legal relationship

¹ See Phillips, chs. iii, iv.

² *Ibid.*, ch. iv.

³ For further material to support this conclusion see *ibid.*, pp. 141-3, 270-3, 280-2.

⁴ P.R.O., E101/68/2/42D. The text is printed in Phillips, app. 3.

⁵ Tout's belief that this was so was based on the incomplete Latin version of Lancaster's letter of July 1317 which explained his absence from the Nottingham council (*Gesta Edwardi de Carnarvan*, pp. 50-2). The full text of the original French version in Adam Murimuth's *Continuatio Chronicarum*, pp. 271-4, makes it clear that Lancaster was talking about events in 1316 when he, Badlesmere and others had served on a royal reform commission, and not only about 1317. See also Phillips, pp. 143-4.

⁶ See Davies, pp. 427-8; Phillips, pp. 143-5.

with the king in two contracts for life service made in September 1316 and in about August 1317.¹

Thus when the evidence on the three supposed founders of the 'middle party' is examined, none of the candidates fits the traditional picture. Damory turns out to have been an irresponsible royal favourite who had done much to wreck the attempts during 1317 to make an accommodation between the king and Lancaster because such an agreement would be an implied threat to his position at court. Pembroke and Badlesmere were not after all unscrupulous magnates trying to force themselves upon the king but were instead his close and valued councillors. In the case of Pembroke it is certain that he was playing a highly responsible role in trying to improve relations between the king and Lancaster, and it is very likely that Badlesmere was following a similar course of action before the autumn of 1317. It is scarcely probable then that Pembroke and Badlesmere's indenture with Damory in November 1317 could have been the foundation of a 'middle party'. What in that case was the purpose of the indenture? The evidence so far produced already suggests the answer.

As we have seen, Lancaster was well aware of the malignant character and activities of Roger Damory and there is no reason to doubt that Pembroke and Badlesmere were equally conscious that he was a dangerous man to be so close to the weak and easily influenced Edward II. In October 1317 Damory had almost involved the king in open conflict with Lancaster and on top of this he had now become even more powerful with the livery on 15 November 1317 of his wife's share of the Gloucester inheritance. It was natural that Pembroke and Badlesmere should look for some way of preventing Damory from causing even greater trouble in the future, and their solution was an indenture between themselves and Damory. The purpose of the indenture of 24 November 1317 was not therefore to restrain the king and form a 'middle party'; on the contrary, it was meant to restrain Damory and act as a guarantee of his future good conduct. If one looks at the terms of the indenture, this conclusion becomes even clearer, since nearly the whole of the document is taken up by promises on the part of Damory. When he promised, for example, not to urge the king to do anything unwise or to grant land worth more than £20, he was in effect restricting his own conduct, since no one was more likely to persuade the king to act in this way than Damory himself. There is no reason either to agree with the view that the king did not know of and approve the actions of Pembroke and Badlesmere.² Damory had little choice but to accept the terms presented

¹On 29 Sept. 1316 the king retained him for an annual fee of 600 marks in peacetime and the service of 100 men-at-arms in wartime (Soc. Antiqs., MS. 120 fo. 45, MS. 121 fo. 20v). Before 3 Aug. 1317 he was retained for life for the value of his counsel at 1,000 marks a year (P.R.O., C81/101/4339).

²Davies, p. 434, argued that the indenture was kept secret from the king on the grounds of the king's pardon to Badlesmere in Aug. 1321 for his breach of a 'writing' (C.P.R. 1321-4, p. 21). The term 'writing', however, referred to Badlesmere's two contracts with the king in 1316 and 1317 which he had broken by rebelling against the Despensers in 1321.

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to him, since he knew the alternative would be his banishment from court, or worse, if Lancaster ever succeeded in enforcing his demands. There is no evidence that Pembroke and Badlesmere made similar indentures with the other leading favourites, Audley and Montacute, but even if they had done so the resulting agreements would be explicable in exactly the same way.¹

The traditional 'middle party' interpretation may therefore be discarded, but the examination of the events which preceded the indenture with Damory also suggests a new general interpretation for this period of the reign of Edward II. The essential feature of this analysis is the existence of a division among the king's close associates. There was one group of capable and experienced councillors, such as Pembroke, Badlesmere and others, and a second group of favourites whose position depended on the king's passing infatuation with them. The basis of the division between these two groups lay in their respective attitudes hitherto towards negotiations between Edward II and Lancaster, the one wanting a settlement, while the other did its best to destroy all chances of one. At the same time there was a third most important group which has not so far been mentioned specifically. This was composed of the archbishop and prelates of the province of Canterbury, the archbishop of Dublin, Alexander de Bicknor, and the two papal envoys, Cardinals Gaucelin and Luke. This group had acted as mediators between the king and Lancaster at Pontefract in August 1317 and again at York the following month.² The prelates were well placed to mediate collectively, because they could not be suspected of seeking power for themselves as a group, while the presence of several prelates on the royal council acted as a useful link between the remaining prelates and the king and his other advisers.

There is, however, one further element in the 1317 situation to be taken into account, namely the part played by the magnates. The traditional view is that Edward II was opposed by a substantial proportion of the leading magnates, whose chief spokesman was the earl of Lancaster and who aimed to control and reform the royal government. In other words the king and magnates were inherently divided by differing views on how government ought to be conducted. This 'constitutional' view of the reign is conveniently symbolized by the baronial declaration of 1308 that homage and allegiance were due to the office rather than the person of the king—a declaration which has consequently been regarded as forming part of a baronial theory of constitutional opposition.³ There is of course no doubt that Edward II's reign was politically a very disturbed one and that such a situation would tend to force any opposition to justify itself on occasion. On the other hand a close examination of the evidence reveals a more complex situation than has previously been understood.

¹ For further discussion of the Damory indenture and its significance see Phillips, pp. 146–7.

² Trivet, p. 23; *Flores Historiarum*, iii. 180; *Vita Edwardi Secundi*, p. 82; Phillips, pp. 123–4, 128–9.

³ *Annales Londonienses*, in *Chronicles of the Reigns of Edw. I and Edw. II*, i. 153–4.

In 1317, the point of immediate concern, it is evident that, far from being openly hostile to the king or sullenly neutral, most of the leading magnates were co-operating loyally with him. This was happening at the very moment when many of them are supposed to have been joining a 'middle party'. The attitude of the magnates is clearly shown by the little known fact that in late 1316 and during 1317 many of them were making contracts with the king. Few of the original contracts have survived, but it is possible to reconstruct the terms of the remainder from scattered references. Where sufficient evidence is available the contracts are for life service, at an annual peacetime fee which was far in excess of the usual fee of a household knight or banneret. The number of men-at-arms to be brought for service in wartime was also specified. It is probably safe to say that the same kind of terms applied in the case of other contracts, about which nothing is known beyond the mere fact of their existence. The contracts entered into with the king by Pembroke, Badlesmere and Damory have already been mentioned, but similar ones have been traced for such men as the earl of Hereford, Hugh Despenser the Younger, Hugh Audley the Younger, William de Montacute, John de Mowbray, John Giffard and John Botetourt, as well as others.¹ A number of other magnates such as Roger Mortimer of Wigmore, Roger Mortimer of Chirk and the earl of Arundel indicated their co-operation with the king by undertaking important military and administrative posts.²

In the light of earlier research into the period, this evidence of magnate behaviour is a wholly unexpected fact and requires some explanation. One possible conclusion from this evidence might be, as Dr. Maddicott has argued, that the king was consciously trying to build up a court party by the use of royal patronage in order to give as many magnates as possible a vested interest in the *status quo*. This would serve to protect the king's favourites and frustrate Lancaster's attempts to achieve the revocation of royal grants which had been made in breach of the Ordinances.³ However, this line of argument supposes a greater degree of initiative and political skill than Edward II had shown hitherto and requires the magnates passively to allow themselves to be bought. Clearly the magnates involved did not go unrewarded for their support, but there were other positive reasons which inclined them towards the king. One of these was the problem of how to

¹The significance of these contracts is discussed in Phillips, pp. 148-9, and full details of their terms are given in app. 3. This material on the development of royal indentures may be supplemented by Dr. Michael Jones's very valuable article on early non-regal indentures, 'An indenture between Robert, lord Mohaut, and Sir John de Bracebridge for life service in peace and war, 1310', *Jour. Soc. Archivists*, iv no. 5 (Apr. 1972).

²Mortimer of Wigmore was appointed Lieutenant of Ireland on 23 Nov. 1316 (*C.P.R.* 1313-17, p. 563); Mortimer of Chirk became Justice of North Wales on the same date and was reappointed for life Justice of North and South Wales on 7 Oct. 1317 (*C.F.R.* 1307-19, pp. 312, 342); Arundel was appointed Warden of the Scottish March on 19 Nov. 1316 (P.R.O., E101/68/2/37).

³Maddicott, *Thomas of Lancaster*, pp. 210-11.

provide the king with a reliable and permanent element of military strength. This was of particular urgency at the end of 1316, when the contracts first start to appear, since there was then a grave and continuing threat of Scottish invasion, and the traditional form of royal campaign was being nullified because of the king's worsening relations with Lancaster. The Scottish threat may therefore have been one major reason for the willingness of the magnates to rally around the king.

However, a further probable cause of this situation was a profound and growing irritation among the magnates with the earl of Lancaster. There is evidence that in the summer of 1318 the majority of the leading magnates had lost patience with him, because they regarded his unwillingness to co-operate with the king as a major reason for the Scottish ability to invade and devastate the north of England. The accusation made against him at the same time—that he wished 'sovereinete a li accrocher vers les autres'—suggests that Lancaster's fellow magnates considered that his demands for reform cloaked a demand for supreme political power for himself which they were not prepared to concede.¹ Lancaster was not in reality the leader of a permanent baronial opposition but for much of the time was a lone and petulant voice supported only by his own personal retainers and, one suspects, with little or no real idea of what he wanted beyond the removal of the king's favourites.²

There were particular reasons for the co-operation of king and magnates between 1316 and 1318, but an examination of the reign as a whole shows that, despite the dramatic nature of its crises, the normal tendency of the magnates was to work with the king whenever possible or to remain neutral. With the exception of the final irretrievable breakdown in support for the king in 1326, the moments of united baronial opposition, such as 1312 and 1321, were short-lived and even at such times there were always magnates who supported the king or tried to stay uncommitted. To understand the complexities of the period it is necessary to treat the leading magnates as individuals with differing interests whose political attitudes and allegiances altered with circumstances. What moved the English magnates to unity was not loyalty to some theory of constitutional opposition to the monarchy but rather personal issues such as the activities of Gaveston and later of the younger Despenser.³

When this new interpretation of the events of 1317 is applied to our knowledge of the negotiations which preceded the treaty of Leake in 1318

¹See P.R.O., C49/4/26, printed in *Eng. Hist. Rev.*, xxxiii (1918) as 'A Political Agreement of June 1318'. Another version of this document with a full list of those concerned with it is P.R.O., C49/4/27 (text printed in Phillips, app. 4).

²For further comment on the political role and character of Lancaster see Phillips, pp. 150-1, 285-7. This is a less favourable view than that put forward by Dr. Maddicott.

³The nature of the relationship between the king and the magnates is discussed more fully in Phillips, pp. 148-51, 282-8. The conclusion that there was no baronial opposition of the kind that has traditionally been suggested is shared by Dr. Maddicott (*Thomas of Lancaster*, pp. vii, 324-6).

it proves to fit very closely.¹ This time the contribution made by the prelates comes out very clearly indeed. It was they who began to search for ways of bringing the king and Lancaster together at the end of 1317 when negotiations must have seemed hopeless;² they and not a 'middle party' organized the famous meeting at Leicester in April 1318 with which the Leake negotiations are usually thought to have begun;³ they kept the talks going when they were in danger of collapse; and finally they helped to guarantee the settlement of August 1318. Thus it might seem that the prelates ought to be described as a 'middle party'. To do so, however, would be to confuse their role as impartial mediators who were not seeking political power, with the traditional 'middle party' interpretation which assumed the existence of an organized political group whose purpose was to obtain and to keep control of the royal administration.

The importance of the royal favourites, whose behaviour could either help or hinder a settlement, is once again clear in 1318. This point is best illustrated by a recently discovered document, dated 11 June 1318, in which Roger Damory, Hugh Audley the Younger, William de Montacute and two others admitted their past responsibility for Lancaster's refusal to come to court and promised him a safe conduct to come and talk with the king. This document also provides further conclusive proof of the mediating role of the clergy, since the agreement was witnessed and guaranteed by eleven prelates and the two papal envoys.⁴ During the Leake negotiations Pembroke and Badlesmere emerge as prominent negotiators on behalf of the king and not as the leaders of any independent political group. On at least one occasion Pembroke intervened to save the talks from breakdown.⁵ In the meantime the majority of the important English magnates acted in a general mediating role. It was partly due to their determination that a

¹For a full account of the negotiations see Phillips, ch. v. This may be compared with the discussion in Maddicott, *Thomas of Lancaster*, ch. vi.

²In Nov. 1317 the archbishop of Dublin was sent to visit Lancaster at Pontefract on behalf of the king and his council (Soc. Antiqs., MS. 121 fo. 30). The archbishop was very closely associated with the prelates of the Canterbury province in 1317 and 1318.

³In Jan. 1318 the bishop of Norwich visited Lancaster at Pontefract (Norfolk & Norwich Record Office, Reg. J. Salmon fo. 72). This occurred just after a number of prelates had met the royal council to discuss the king's relations with Lancaster (*C.Cl.R.* 1313-18, p. 586; *Vita Edwardi Secundi*, p. 84). On 23 Feb. a provincial council of the Canterbury province met in London and almost certainly discussed arrangements for a meeting between the king's advisers and Lancaster (Cambridge Univ. Libr., MS. Ee. 5.31 fo. 188v (Reg. of Henry of Eastry, prior of Canterbury)).

⁴P.R.O., S.C.1/63/183: the other two men who gave a guarantee to Lancaster were Lancaster's old opponent, Hugh Despenser the Elder, and a member of the royal household, John Charlton, who had a long-standing dispute with Lancaster's banneret, Gruffydd de la Pole, over the possession of Welshpool. The text of the document is printed in Phillips, app. 4. The volume of P.R.O., Ancient Correspondence (S.C.1) in which it occurs was added to that class in Dec. 1967.

⁵Hist. MSS. Comm., *Various Collections*, i. 268. Pembroke and Badlesmere attended the Leicester meeting in Apr. 1318 as royal envoys (Soc. Antiqs., MS. 121 fo. 20v).

settlement should be reached and their consequent pressure on Lancaster, and probably also on the king, that the Leake agreement was finally assured.¹ Once again, as in the case of the prelates, it would be confusing to describe the magnates as a 'middle party' since they had no formal political organization and were acting rather as a pressure group which wanted to restore internal peace to the kingdom and allow the royal government to take the offensive against the Scots.² By their series of contracts with the king the magnates had already ensured that the military resources for such a policy would be readily available once the right political conditions had been created.

However, the irony in the extremely complicated events of 1317 and 1318 was that, despite all the mediating efforts of the prelates and the magnates and Pembroke's own contribution in his indenture with Damory in November 1317, it may after all have been Edward II himself who solved the problem of the favourites and helped to bring peace nearer. It is now known that the favourites did indeed leave the court after the 1318 settlement,³ as Lancaster had been demanding, but the real explanation for their removal may be that Edward II had at last tired of them and that just as their rise to power in late 1316 and 1317 had created a major political crisis, so their decline in royal favour contributed to ending it. They were not, however, left without a successor in the king's favour: this was Hugh Despenser the Younger, the son of Lancaster's long-time opponent, who was promoted to be chamberlain of the royal household in the summer of 1318.⁴ By a

¹Their exasperation with Lancaster is clearly shown in P.R.O., C49/4/26, 27. See p. 24, n. 1 above.

²This is an appropriate place to refer to Dr. Maddicott's use of the term 'middle party' in his book, *Thomas of Lancaster*. Although he does not discuss the interpretation in great detail, he too is clearly dissatisfied with the views of earlier writers. We are both in agreement that the indenture between Pembroke, Badlesmere and Damory on which the traditional interpretation was based, did not in fact mark the formation of a 'middle party'. Dr. Maddicott instead sees the origins and work of the 'middle party' in the 'informal groupings of bishops and one or two barons who travelled to and fro between Lancaster and the court from September 1317 onwards' (*Thomas of Lancaster*, p. 215). Like myself, however, he appears to consider the work of these informal groupings as one of mediation and not as the organized bid for political power which the traditional view assumed. There is no need to make any further comparison of our conclusions since we are in basic agreement that the 'middle party' as it has been previously described did not exist. Our main point of difference seems to be over whether there is still any utility in the term 'middle party' now that its substance has been undermined. My own preference is for the final abandonment of the term to avoid confusion, but this is clearly a matter for personal judgement.

³The author of the *Vita Edwardi Secundi*, p. 90, who was in a position to know the facts, says they left the court in 1318. Montacute was removed even further from the scene by being kicked upstairs to become Seneschal of Gascony (Rymer, *Foedera* (Record Comm.), II. i. 377). The three favourites continued to be summoned to parliaments and to campaigns.

⁴Despenser was confirmed as chamberlain at the York parliament of Oct. 1318 (*Documents Illustrative of English History in the 13th and 14th Centuries*, ed. H. Cole (1844), p. 4). Despenser's predecessor in the office was John Charlton, one of the

final tragic irony the eclipse of Roger Damory and his colleagues allowed the entry of a new and even more dangerous favourite whose activities were to prove fatal to many of the magnates who now approved his appointment as chamberlain and ultimately fatal to his royal patron, the king himself.

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men who promised a safe conduct to Lancaster on 11 June, so that Despenser's appointment at some time during the summer of 1318 was itself part of the effort to mollify Lancaster and make a political settlement possible. As is well known, Despenser was soon to become a powerful favourite and enemy of Lancaster in his own right, but at this stage, despite the elder Despenser's hostility towards Lancaster, it does not seem that either Lancaster or the other magnates regarded the younger Despenser as particularly dangerous. For further discussion of the role of the younger Despenser see Phillips, pp. 132-3, 177.

Martin Luther and the Sorbonne, 1519–21

TO HIS CONTEMPORARIES, John Froben was a respected member of the Basle publishing fraternity, whose business interests took in dealings at the major continental fairs. Whilst visiting Frankfurt in 1518, he encountered a colleague, a bookseller from Leipzig named Blasius Salmonius, who presented him with several books written by the new and controversial author Martin Luther. On his return to Switzerland, Froben made the difficult decision to reprint the books he had received. Although there was a market for Luther's writings, publishing them was still an expensive venture in which the risks were not only commercial: Froben was a reputable printer noted for his editions of the classics, whereas Luther was as yet an unknown quantity. Thus it was with a mixture of elation and relief that Froben wrote to Luther on 14 February 1519, announcing the success of an operation to send 600 copies of his works to Spain and France. What gave particular satisfaction, however, was the sales information which Froben had received from friends: '...venduntur Parisiis, leguntur etiam a Sorbonicis et probantur', he wrote.¹

Froben's decision to print was to have momentous implications, but for the moment, he and his colleagues rejoiced in the triumph of their enterprise. At this time, Wolfgang Capito was one of the team's proof-readers,² and he too wrote to Luther telling him that 'Helvetia et Rhenana regio ad Oceanum usque solidos amicos fovet Lutherio'.³ For his part, Luther was delighted with Froben's and Capito's letters. Full of the news, he wrote to John Lang on 13 April 1519, telling him of the friendly reception accorded to his books, especially in Paris, and of their growing circulation throughout Europe.⁴ Meanwhile, there was evidence from a source in France to support Froben's confident assertions. The German humanist Beatus Rhenanus was a former pupil and colleague of Jacques Lefèvre d'Étaples,⁵ and from Basle he kept in touch with events in France by engaging in a lively correspondence with expatriate students resident in Paris. One of

¹*Dr. Martin Luthers Briefwechsel*, ed. E. L. Enders and G. Kawerau (Stuttgart & Leipzig, 1884–1932), i. 420–1 (hereafter cited as Enders); *D. Martin Luthers Werke...Briefwechsel*, ed. K. Burdach *et al.*, i (Weimar, 1930), p. 332 (hereafter cited as *W.A.B.*).

²Capito was a Doctor of Theology, Medicine and Law. As a professor at the University and preacher at the Münster, his work for Froben was necessarily occasional. Froben's principal proof-reader at this time was Oecolampadius.

³Enders, i. 424–5; *W.A.B.*, i. 336.

⁴Enders, ii. 12; *W.A.B.*, i. 369.

⁵A. Renaudet, *Pré-reforme et humanisme à Paris pendant les premières guerres d'Italie (1494–1517)* (2nd edn., Paris, 1953), pp. 422–3, 503–4. Rhenanus was Lefèvre's pupil from 1503 and acted as Henri Estienne's proof-reader for two years before leaving Paris in 1507.

these informants, a Swiss scholar named Pierre Tschudi,¹ reported 'quam M. Lutheri opera ab universa eruditorum cohorte obviis ulnis excipi, etiam iis, qui minimum sapiunt plausibilia'.²

Before 1519, Luther's works had reached Alsace, Switzerland and other areas on the geographical fringe of Germany, and it is likely that odd copies strayed into France; but Froben's and Tschudi's letters provide the earliest evidence of Luther's writings reaching France in any numbers. What struck both of them was the degree of enthusiasm shown in Paris. There was no display of chauvinism. French intellectuals outside the Sorbonne admired Lefèvre, Erasmus and Reuchlin as humanist scholars, and they regarded Luther simply as a significant if recent contributor to the great debate on reform.³ Like the Swiss correspondents of Vadian, Parisians marvelled at Luther's bluntness. A reputation for vigorous expression had preceded the appearance of his books and, perhaps fortuitously, Froben's editions served the market created by this advance publicity. What prompted Froben to send batches of books to France in particular is not clear, but those he despatched were seized upon by churchman and humanist alike who, perhaps for the first time, were able to read for themselves what the German reformer had to say. Neither Froben nor Tschudi specified the titles of the books sent to France, but the 600 copies mentioned by Froben almost certainly included the first collection of Luther's Latin works, the *Opera seu lucubrationes collecta* of 1518,⁴ which enjoyed considerable popularity. What seems likely is that in the year before the publication of the three major works which heralded Luther's break with the Church, even the Sorbonne found itself in sympathy with much of what Luther said and in complete agreement with his forthright attack on indulgences.⁵

His correspondents' glowing reports may well have convinced Luther that many Frenchmen, including members of the Sorbonne, were among his supporters. This would explain why, on 14 July 1519, he agreed (albeit grudgingly) to the proposal to refer the points of disputation at Leipzig to the universities of Erfurt and Paris.⁶ Even this agreed decision raised difficulties. Since many theologians and canonists had shown their

¹He and his cousin Valentin were pupils of Henry Lorit (Glareanus).

²Tschudi to Rhenanus, 17 May 1519 (*Correspondance des Réformateurs dans les pays de langue française*, ed. A. L. Herminjard (9 vols., Geneva & Paris, 1866-97), i. 47). Cf. *W.A.B.*, i. 333 n. 3.

³On humanism in Paris, see especially Renaudet; also Margaret Mann, *Érasme et les débuts de la réforme française 1517-36* (Paris, 1934).

⁴The first edition appeared in Oct. 1518. This proved so popular that a second edition was published in Feb. 1519, a third in Aug. 1519 and a fourth in March 1520.

⁵As recently as 6 May 1518, the University had condemned as excessive the claims made by certain indulgence pedlars in Paris (J. B. L. Crevier, *Histoire de l'Université de Paris depuis son origine jusqu'en l'année 1600* (7 vols., Paris, 1761), v. 35).

⁶Luther was an alumnus of Erfurt. His lack of enthusiasm for the principle of arbitration stemmed from his conviction that no committee, however distinguished, could guarantee to discover the truth.

resistance to new ideas, Luther was keen that younger B.A.s, whom he regarded as less hidebound, should participate in the verdict. John Eck, the Dominican who opposed Luther at Leipzig, disagreed. He was certain that the theological Faculties, especially the Sorbonne which enjoyed such prestige, would not consent to such an arrangement.¹ The question of who should judge was put to George, duke of Albertine Saxony. After only twenty-four hours' reflection, he announced his decision through his chancellor, Caesar Pflug.² Eck's view had prevailed and, in so far as Paris was concerned, only Doctors of Theology were eligible to take part. So far, however, the Paris Faculty remained uncommitted and despite the Sorbonne's reputation for conservatism, Luther felt he had grounds to anticipate a fair hearing.

For his part, Eck lost no time in canvassing support. Realizing that the issues he had raised at Leipzig would decline in topicality, he strove to hasten the condemnation of Luther; but in casting around for means to prompt the Sorbonne, he was considerably handicapped by having no personal contacts with the Paris Faculty. He bullied his ally Duke George to write to the Sorbonne and, on his own account, wrote to Francis I urging the French king to exert pressure in Paris for a verdict favourable to his views.³ Recalling the success of Cologne's appeal to the Sorbonne against Reuchlin in 1514, Eck wrote to the redoubtable Jakob von Hochstraten, requesting him to use his influence with the theologians, 'ut dum optimus Princeps Georgius scripturus sit et missurus Disputationem ac petiturus iudicium, quod tunc illud non recuset'.⁴

Despite the tension which often existed between Paris and Rome, the papacy's judgment in matters of doctrine still carried weight with the Sorbonne. For this reason, Eck wrote to an old friend in Rome, Paul de Citadinis (Paul of Milan), asking him to use his influence in the Curia and in Paris against Luther.⁵ Citadinis and Eck were erstwhile colleagues at the university of Freiburg,⁶ and after going their separate ways, the two men had corresponded periodically. After spells in Milan, Blois and Paris as Apostolic Vicar,⁷ Citadinis bought the lucrative office of apostolic chamber-

¹ *Akten und Briefe zur Kirchenpolitik Herzog Georgs von Sachsen*, ed. F. Gess (Leipzig, 1905-17), i. 92-4; *W.A.B.*, i. 428-31.

² Enders, ii. 74; *Akten und Briefe*, i. 94 n.125; *W.A.B.*, i. 431.

³ *D. Martin Luthers Werke, kritische Gesamtausgabe*, ed. J. F. K. Knaake et al., viii (Weimar, 1889), p. 256 (Weimarer Ausgabe, hereafter cited as W.A.).

⁴ *D. Martini Lutheri Opera Latina*, ed. H. Schmidt (2nd edn., 7 vols., Frankfurt on Main & Erlangen, 1865-73), iii. 476. In his ruling on the eligibility of judges, Duke George excluded all *confrères* of the two protagonists: viz. Augustinians and Dominicans.

⁵ N. Weiss, 'Martin Luther, Jean Eck et l'Université de Paris d'après une lettre inédite, 11 septembre 1519', *Bull. Soc. de l'hist. du protestantisme français*, lvi (1917), 35-48. Weiss includes a transcription of Citadinis' letter (pp. 38-42).

⁶ 'olim conregente et collega meo in universitate Phriburgi, Constanciensis diocesi' (*ibid.*, p. 39).

⁷ 'Ut vero personam rememoret meam reverenda D(ominatione) tua Paulus ille sum Mediolanensis qui olim vicarium apostolicum Mediolani gessi Basis et in

lain and, shortly after settling in Rome, became even more influential as secretary to the Cardinal dei Quattro Santi Coronati, Lorenzo Pucci. Whilst in the French capital, Citadinis met the then bishop of Paris, Étienne Poncher, who had since become archbishop of Sens;¹ so on 11 September 1519, Citadinis took advantage of their acquaintance to write to Poncher, urging him to intercede with the Faculty on Eck's behalf 'ne erroribus hereticis via pateat'.² The outcome of this initiative is unknown as there is no record of Poncher's having approached the Sorbonne; but in the meantime, Eck's efforts to stump up support in Rome continued. He wrote to Leo X. On 31 October 1519, Crotus Rubianus wrote to Luther from Bologna, reporting the contents of Eck's letter as overheard by an informant of his.³ Apparently Eck was full of dire foreboding, said Rubianus, commenting on the pressure which Eck and others had put on the pope to settle Luther's case quickly.⁴ If the situation was allowed to slide, Eck feared that Thuringia, Meissen and the Mark (Brandenburg) would soon be lost to the Church, and other areas were bound to follow soon after that. Thus he stressed the urgent need for action against Luther, Hutten and others of heretical bent if irreparable damage was to be avoided.

Supporters and opponents of Luther alike hoped for a prompt judgment of the disputation, but their hopes were soon dashed. To begin with, the German authorities were slow to convey the articles of dispute to Paris; despite Eck's urgent injunctions, George of Saxony did not write to the Sorbonne until 4 October 1519, and then he enclosed only a single copy of the debate.⁵ The Faculty had still received no complete text when Thomas Gramye, writing from Paris on 26 December 1519, told Duke George that a select committee of twenty-four theologians was now ready to prepare a judgment.⁶ The committee's eventual acquisition of twenty copies of the disputation six months after Leipzig was due entirely to the diligence of Jean Nicolas, *quêteur* of the *Nation française*. As Nicolas himself recorded:

Die 20 Januar. (1520) comparavi 20 libros intitulatos: Disputatio inter egregios viros et doctores Joa. Eckium et M. Lutherum, ex ordinatione Nationis, ad conclusionem Universitatis, distribuendos deputatis, et illis qui vellent eorum opinionem referre in praefata Universitate.⁷

Parisiensi civitate a reverenda D(ominatione) tua pluries honorifice exceptus' (*ibid.*, p. 41).

¹ *Correspondance des Réformateurs*, i. 34 n. 9.

² Weiss, *ubi supra*, p. 40.

³ Enders, ii. 211-13; *W.A.B.*, i. 545-6.

⁴ Enders, ii. 212; *W.A.B.*, i. 546.

⁵ *Akten und Briefe*, i. 100ff.; *W.A.*, viii. 256.

⁶ Crevier, v. 137; P. Féret, *La Faculté de Théologie de Paris et ses docteurs les plus célèbres. Époque moderne* (7 vols., Paris, 1900-10), i. 99; *D. Martin Luther, Ein Urteil der Theologen zu Paris über die Lehre D. Luthers*, ed. N. Müller (Neudrucke deutscher Literaturwerke, ciii, Halle, 1892), pp. 101-9.

⁷ C. E. Du Boulay, *Historia Universitatis Parisiensis* (6 vols., Paris, 1665-73), vi. 109; cf. *W.A.*, viii. 257.

For the next six months, the Sorbonne drew a veil over its proceedings as discussion of Luther's case was conducted in complete secrecy. Meanwhile, the absence of any public pronouncement irritated all parties to the matter and was widely taken to indicate inactivity on the theologians' part. Initially, Luther had declared himself indifferent to the verdict,¹ but as early as September 1519, there were signs that he was beginning to be uneasy. He wrote to Lang on 3 September, 'Miror, quid tardent Erfordientes vestri, R.P.', and later letters to Spalatin and Lang suggest he was rattled by the magisterial silence of both Faculties.² Among Luther's enemies, Duke George was particularly unnerved by what he took to be the Sorbonne's irresolution. He was fearful that Paris, like Erfurt, would decline to give an opinion. On 29 December 1519, the German Faculty had written to him conveying its decision not to participate in the case,³ and it had refused to be drawn by the duke's attempt to re-enlist its co-operation, made in a letter of 9 January 1520.⁴ Thus a favourable judgment from Paris became essential. After his earlier dilatoriness towards the Sorbonne, Duke George became extremely solicitous on Eck's behalf, pestering the Faculty to press on with the case. The Elector Frederick too wrote to the Sorbonne supporting his protégé in the spring of 1520. It was this last inquiry which prompted the Faculty syndic Noel Béda to consult his university colleagues, who decided 'nullas literas responsivas dari dicto Duci Saxoniae, aut cuius alteri nisi prius habito super his consilio a quatuor Facultatibus'.⁵ Undeterred by the lack of response, Duke George wrote yet again on 2 May 1520 to demand action; coincidentally, albeit in different vein, the Elector addressed his representations to Paris on the same day.⁶ Again the Faculty demurred.

Meanwhile in Rome, the comparatively moderate counsels of Miltitz and Cajetan had lost ground to the more extreme views of John Eck.⁷ In the Bull *Exsurge, Domine* promulgated on 15 June 1520,⁸ Luther and his comrades were given sixty days in which to recant or else suffer excommunication. The Bull was vague and slapdash. Even Eck thought little of its final form and he was staggered to find the Curia so ignorant of Luther's errors. On 17 July, whilst Eck and Aleander were appointed nuncios to execute the Bull in Germany, a meeting of the Sorbonne held in the Mathurins heard the letters of 2 May from the Elector and Duke George read aloud. During

¹Cf. p. 29, n. 6 above.

²Luther to Lang, 3 Sept. 1519 (Enders, ii. 139; *W.A.B.*, i. 506); Luther to Spalatin, 3 Dec. 1519 (Enders, ii. 269; *W.A.B.*, i. 565); Luther to Lang, 18 Dec. 1519 (Enders, ii. 281; *W.A.B.*, i. 596-7).

³*Akten und Briefe*, i. 113.

⁴*Ibid.*, p. 114; *W.A.*, viii. 256.

⁵Du Boulay, vi. 116. According to Du Boulay, 'M. Natalis Bedda rem ad Vniuersitatem deferat die 2. Martij': cf. Crevier, v. 139; *W.A.*, viii. 258.

⁶Weiss, *ubi supra*, p. 43; Féret, i. 99.

⁷P. Kalkoff, 'Zu Luthers römischen Prozess', *Zeitschrift für Kirchengeschichte*, xxv (1904), 104ff.

⁸*Ibid.*, p. 129.

the session, the Faculty began its long overdue examination of the Leipzig articles by appointing a sub-committee of two, Bédac and Jacques Barthélemy, to study part IV of the dispute, the section dealing with penitence.¹

Another two months elapsed whilst the two commissioners went to work, and an inconclusive two-day debate in plenary session followed the presentation of their report on 15 September.² By 15 November 1520, when Bédac began a second review of Luther's ideas, events had started to overtake the Sorbonne.³ Five days earlier, the persistent Duke George had written yet again, but in terms which betrayed his alarm at the radical developments of the summer and autumn of 1520.⁴ In August, Luther's *An den christlichen Adel deutscher Nation von des christlichen Standes Besserung* had been published;⁵ two months later, *De Captivitate Babylonica Ecclesiae* appeared⁶ and on 10 October, Luther had received the papal Bull. Although Rome's position was now clearer, Luther was persuaded by Miltitz to write once more to the pope.⁷ With this third and last letter, Luther sent his latest work, *Tractatus de libertate christiana*.⁸ As a recent commentator puts it:

What the Pope thought of the book we do not know. He was too worldly to like it, or even to read it. The letter accompanying it destroyed all prospects of reconciliation. In his first letter to the Pope (1518) Luther threw himself at his feet, in his second letter (1519) he addressed him as his humble servant but would not recant, in his third letter (1520) he addressed him as an equal and pitied him as a poor Daniel in a den of lions. He made the devastating remark that the Pope was called the Vicar of Christ for a vicar was there because someone else was absent, and it was Christ who was absent from Rome.⁹

On the expiry of the sixty days' grace, Luther burned the Bull (10 December 1520) and the sentence of excommunication came into effect on 3 January 1521.¹⁰

All these events made the Sorbonne's original terms of reference obsolete. The many inquiries from people sharing Duke George's frustration at the apparent lack of progress increased pressure on the theologians to settle the matter. As a result, meetings became more frequent in the winter of 1520-1.¹¹ After more than a year's procrastination, the Faculty finally met to

¹ Paris, Bibliothèque Nationale, nouv. acq. lat. 1782 fo. 65. This MS. covers the Faculty's proceedings of 1505-33, and was analysed in L. Delisle, 'Notice sur un registre des procès-verbaux de la Faculté de Théologie de Paris', *Notices et extraits des manuscrits de la Bibliothèque Nationale*, xxxvi (1899). From 1533 onwards, one has recourse to a separate MS.: Archives Nationales MM 248.

² Delisle, *ubi supra*, pp. 324, 354.

³ B.N., nouv. acq. lat. 1782 fos. 65v-66v.

⁴ *Akten und Briefe*, i. 144f.

⁵ Enders, ii. 414, 461.

⁶ W.A., vi (1888), p. 487.

⁷ W.A.B., ii (1931), p. 197.

⁸ W.A., vii (1897), pp. 3-13.

⁹ J. Atkinson, *Martin Luther and the birth of Protestantism* (1968), p. 193.

¹⁰ L. Pastor, *The History of the Popes*, ed. R. F. Kerr (3rd edn., London & St. Louis, 1950), vi. 415-16.

¹¹ *Luther, Ein Urteil der Theologen*, p. 12.

resolve Luther's case on the eve of his entry into Worms and, in the light of the report prepared by Béda and his fellow committee-members, the Sorbonne condemned as heretical some 104 propositions attributed to Luther.¹ One week later, the theologians met again. On 22-24 April, there was a long discussion to draft letters to Francis I, Charles V and Duke George, exhorting all Christian princes to extirpate Luther's heresy in their dominions,² and after entrusting the king's confessor Guillaume Petit with its letter to Francis, the Faculty passed a resolution despatching a copy of the condemnation to the king.³ At this point, the Sorbonne's direct involvement with Luther ceased.

Shortly after reaching its decision, the Faculty had Josse Bade (Ascensius) publish the text of the verdict as the *Determinatio Theologicae Facultatis Parisiensis super doctrina Lutheriana hactenus per eam visa*,⁴ a booklet comprising sixteen leaves in 4^o, the foliation of which is incomplete.⁵ It opens with an introduction in which the theologians, tracing the spiritual ancestry and historical context of Luther's heresy, condemn him as a 'virulentus veterum haeresum innouator':

De libero namque arbitrio disserens Manicheos sequitur: de contritione & iis quae eam praecedunt, Hussitas: Wicleuistas vero de confessione. De praeceptis Begardos, Catharos de punitione haereticorum: de immunitate ecclesiasticorum & euangelicis consiliis Valdenses & Bohemos...⁶

The introduction continues throughout in similar vein, making great play of the alleged similarities between Luther and the Manicheans.

On folio 5v appears an *Index materialium ex variis Lutheri libris excerptarum*. Propositions extracted from *De Captivitate Babylonica Ecclesiae* are grouped under five headings: 'De sacramentis; de constitutionibus

¹W.A., viii. 258; B.N., nouv. acq. lat. 1782.

²B.N., nouv. acq. lat. 1782 fo. 67v.

³*Ibid.*

⁴*Determinatio*, fo. 16v. Although Josse Bade was granted exclusive rights of publication by the Sorbonne, he could not prevent the production of many pirate editions (W.A., viii. 268-70). Of those I have been able to trace, none renders the original, authorized text accurately. The translation which appears in the Weimar edition of Luther's works (*ibid.*, pp. 267-90), must be used with care. The reader is put on his guard by Luther's foreword (p. 267), and his suspicions are confirmed after a few lines when the Latin original 'obsolescet catholicae doctrinae vigor' is rendered 'und die frischeit det Christlichen lere vortirbt' (*ibid.*, p. 268 lines 10-11). What ensues has the seductive merit of following the Latin text throughout, but by imposing his own distinctive vocabulary, and by adding explanatory footnotes where subtle changes of emphasis were inappropriate, the translator (almost certainly Luther himself) gave it an unmistakable cast.

A number of venerable secondary authorities include what they claim to be the *Determinatio*, either in part or in whole. Among these are C. Duplessis D'Argentré, *Collectio judiciorum de novis erroribus* (3 vols., Paris, 1728-36), i. 365-74 and Du Boulay, vi. 116-27. None of these is faithful to the original text.

⁵The British Museum has two copies, 807 b. 14 (2) and 697 h. 42.

⁶*Determinatio*, fo. 4.

ecclesiae; de operum aequalitate; de votis; de diuina essentia'. As for 'materiae ex aliis eiusdem Lutheri libris excerptae', these are classified under eighteen headings: 'De conceptione beatae & gloriosae virginis; de contritione; de confessione; de absolutione; de satisfactione; de accentibus ad Eucharistiam; de certitudine charitatis habitae; de peccatis; de praeceptis; de consiliis euangelicis; de purgatorio; de conciliis vniuersalibus ecclesiae; de haereticorum poena; de legalium cessatione; de bello aduersus Turcas; de immunitate ecclesiasticorum; de libero arbitrio; de philosophia & theologia scholastica'. Then follow twenty-one pages in which all 104 articles condemned by the Sorbonne, classed under the heads listed in the *Index*, are treated to individual censure.¹

The *Determinatio* of 15 April 1521 was conclusive to Luther's case,² and yet the most striking feature of the condemnation is its very slight connection with the Leipzig articles. About one quarter of the judgment concerns propositions taken from *De Captivitate Babylonica Ecclesiae*, published the previous summer, for which the theologians expressed a special aversion. Had the verdict been based on the evidence originally submitted, then the question of papal primacy which had so exercised the Leipzig disputants would again have occupied pride of place; but a repetition of the Sorbonne's opinion on this topic would have been superfluous, and as the Faculty's field of reference had grown, the issue was eliminated.³ Even so, why did the Faculty take sixteen months to reach a decision which manifestly bore little connection with the Leipzig articles?

The secrecy surrounding the deliberations which led to the *Determinatio* is almost impenetrable for, against mounting public pressure, the Faculty consistently refused to give any information about Luther's case in accordance with the resolution of 2 March 1520.⁴ Nor is the Sorbonne's register much more forthcoming.⁵ Between January 1520 and April 1521, the dates on which the matter was discussed are recorded. From the infrequency of these entries it would be easy to infer that the Sorbonne's application in the case was spasmodic, even casual; but such a conclusion cannot be sustained. The register confined itself to official faculty debates and proceedings in plenary session. It took no account of informal exchanges, nor of the internal workings of committees such as the one set up to examine the articles; unfortunately, no record of this committee's confidential discussions has survived. All that remain are the register's few terse minutes which are devoid of comment, all that is except one.

¹*Ibid.*, fos. 6-16.

²When set against the sense of the whole condemnation, qualifications like 'doctrina Lutheriana', '...Luther ipse, seu author quisquis est opusculorum illius editorum nomine...', and 'doctrina Lutheriano adscripta nomini...' were of no real importance.

³W.A., viii. 259; cf. *Luther, Ein Urteil der Theologen*, p. 13.

⁴Cf. p. 32, n. 5 above.

⁵B.N., nouv. acq. lat. 1782.

After recording discussion of Luther's case, the entry for 13 August 1520 ends cryptically: 'non fuit conclusio pacifica'.¹ This single reference is the clearest possible indication that the Faculty was split. Bearing in mind that Paris had to reach a verdict, Erfurt having already withdrawn, it provides the basis of the hypothesis that (I) by the autumn of 1520, the Faculty was so divided over the Leipzig articles that it became pointless to continue: agreement on a verdict was inconceivable. (II) The only solution to this unseemly conflict of opinion lay in ditching the articles and this was done, probably in the early spring of 1521. After devising new terms of reference to cover all recent developments, the Sorbonne proceeded to the *Determinatio* of 15 April.

Quite apart from the register entry of 13 August, there is circumstantial evidence to support the first proposition. To begin with, there was the strange affair of the resolution of 2 March which prohibited the release of any information.² That it should have come two months *after* Nicolas had delivered copies of the Leipzig text suggests that differences of opinion had appeared as early as spring 1520. This opinion is strengthened by the letter of 17 April 1520 in which Melancthon passed on some information to John Hess:

Erphordiana de Lipsica disputatione non iudicabunt, absterriti, ut credo, exemplo Coloniensium et Lovaniensium. Parrhisii quid facturi sint, nescimus. Ante paucos dies Parrhisiis accepimus, esse ibi quendam primi nominis Theologum, qui nostras partes etiam scripto tueatur. Cuius si qua ad nos venerint exempla, et tu videbis.³

Certainly, attitudes had hardened by the autumn for, according to the register, the debates of 15-17 September and 17 November which followed reports on Luther's ideas were both inconclusive.⁴

As to the second proposition, reference has already been made to the tenuous relationship of the *Determinatio* to the Leipzig articles. Whilst the bluntness of the terms employed to refute each of Luther's propositions is typical of other Sorbonne condemnations, the absence of detailed references to support the Faculty's point of view is not. The lack of documentation and the haphazard way in which the propositions were organized⁵ point to inadequate research and hasty drafting, sure indications of the Faculty having revised its area of study only shortly before the verdict was announced.⁶

When the Faculty was pressed for a decision in the autumn of 1520, rumours of the Sorbonne's disposition had abounded. Speculation surrounded the theologians' attitude towards the papal Bull. According to

¹B.N., nouv. acq. lat. 1782 fo. 64v.

²Cf. p. 32, n. 5 above.

³*Philippi Melancthonis Opera, Corpus Reformatorum*, i, ed. C. G. Bretschneider (Halle, 1834), col. 160.

⁴B.N., nouv. acq. lat. 1782 fos. 65v, 66v.

⁵Cf. *Determinatio*, fo. 16: the last proposition.

⁶*Luther, Ein Urteil der Theologen*, p. 12.

Bernhard Adelmann, 'Parisienses theologes omnes articulos in Bulla damnatos censuisse christianissimos, praeter duos, quo disputabiles habent'.¹ Writing many years after the event, Cochlaeus too recalled that

...expectabant Lutherani illorum (Parisiensium) iudicium. Tanta sane cum fiducia, ut nonnulli eorum Vuormacie: cum maxime ageretur causa Lutheri, affirmarent, Parisienses ex Bulla Papae articulos Lutheri 38 approbasse, duos tantum sub dubio reliquisse.²

One view was that the Sorbonne was deliberately prevaricating in November. In acceding to Eck's demands for prompt action, Leo X had promulgated the Bull without observing those niceties of consultation to which the Sorbonne felt entitled. According to Glareanus, this oversight had piqued the theologians:

...nunc de Luthero audi nova. Universitas Parisiensis, quandoquidem ad eam disceptatio inter Geckium et Lutherum delata fuit, tanquam ad iudicem, posteaquam audivit, damnatum Lutherum a Pontifice Maximo, ipsa, quae quosdam articulos fortassis vellicatura erat, nunc iudicio supersedit.³

On the other hand, a contrary rumour had it that the Sorbonne was seeking advice from Rome in November—not that the papacy's slovenly handling of the whole affair could give Paris much guidance.

All such speculation was finally scotched by the *Determinatio* which was the unmistakable response to changed circumstances of an institution conscient of its own reputation for impeccable orthodoxy in matters doctrinal. Whilst Luther's excommunication was probably the single most important fact in deciding those *Sorbonnistes* who had defended him that they could no longer continue to do so, it became apparent in the summer of 1520 that the leisurely processes of academic judgment had been entirely inappropriate to the rapid development of Luther's case. In the wake of Luther, Eck and the papacy, the Sorbonne was left floundering. Thus, the adoption of a new brief was due partly to the need to escape from the deadlock reached over the Leipzig articles, but more especially to the theologians' desire to catch up with and influence events. Moreover, the materials whereby the Sorbonne could make up the leeway lay readily to hand. No doubt the papal Bull did influence faculty thinking on the scope of its new brief, but the contribution of Jerome Aleander was equally important. In providing as much additional evidence as he thought necessary to secure a condemnation, he had plied the Faculty with Luther's publications since the beginning of 1520.⁴ Ironically, his conscientiousness proved counter-productive. First, the information he supplied merely increased the Sorbonne's difficulties in trying to consider the Leipzig articles in isolation.

¹W.A., viii. 257.

²*Ibid.*, n. 1.

³*Correspondance des Réformateurs*, i. 62-3; cf. *Huldrici Zuinglii Opera*, ed. M. Schuler and J. Schultess (8 vols., Zurich, 1828-42), vii. 151.

⁴W.A., viii. 257.

Secondly, in drawing the Sorbonne's attention away from the prescribed area of judgment, Aleander unwittingly provided the material basis for an alternative verdict which ignored the issue of papal primacy.

In so far as they deflected the Sorbonne from its original purpose, Aleander's efforts and the papal Bull were positively prejudicial to Eck's case. As far as Eck was concerned, the *Determinatio* was botched. Whilst supporting the orthodox, papal case in general terms, the verdict made no mention of the articles submitted in 1519. Indeed, nowhere was the case put by Eck at Leipzig specifically vindicated. Eck's irritation bubbled over into a pamphlet he produced, citing fifty-four of Luther's errors condemned by the Sorbonne which, he maintained, had been discussed at Leipzig, and their inclusion in the *Determinatio* proved that he had won the debate.¹

Luther's supporters too were disappointed with the outcome. A disconsolate Glareanus wrote to Zwingli from Paris on 4 July 1521:

Iam de Luthero ut multa scribam non est visum operae pretium, quum ex Scudis² omnia facillime intelligere potes. Magnus ille est. Mataeologi nostri³ sese dignum egere, ne scilicet vel nostra aetas Pharisaeis careret. Damnarunt Triumviri: Beda (non tamen Venerabilis)⁴ Quercus⁵ et quidam Christophorus. Nomina sunt horum monstorum etiam vulgo nunc nota, Belua, Stercus et Christotomus.⁶

Glareanus's phraseology suggests that he was not acquainted with the last-mentioned Christophorus; his surname is unknown and there is no additional evidence to identify him. Of the other two men vilified for organizing the Sorbonne condemnation, Noel Béda was the Faculty's syndic, whose zeal for orthodoxy and talent for anatomizing suspicious texts were universally recognized. Besides being Béda's principal lieutenant, Guillaume Duchesne was *curé* of St. Jean de Grève and a distinguished theologian in his own right. Both were well known as the leaders of a powerful reactionary clique within the Sorbonne which had already shown its total opposition to theological innovation and humanist ideas.⁷

¹Luther, *Ein Urteil der Theologen*, p. 13.

²The cousins Tschudi: cf. p. 29, n. 1 above.

³I.e. the theologians, often referred to ironically as 'magistri nostri'.

⁴A rather leaden pun on the name Béda (variously spelt Beyde, Beydier, Bédier) and Bede.

⁵Duchesne: variously spelt Du Chesne, Du Quesne.

⁶*Correspondance des Réformateurs*, i. 69-70. Erasmus agreed: 'Parisiis duo potissimum impugnant Lutherum; Querquo Normannus, seniculus virulentus, et Bedda (Stan)donchensis, truncus verius quam homo' (*Opus epistolarum Des. Erasmi Roterodami*, ed. P. S. and H. M. Allen (12 vols., Oxford, 1906-58), iv. 447-8). Whilst a student at the Collège de Montaigu, Béda had been a protégé of the principal Jean Standonck, himself a notable conservative reformer. On Standonck's death in 1504, Béda became principal. After his appointment as syndic of the theological Faculty, Béda renounced his functions as college principal in 1513, but he continued to supervise teaching at Montaigu.

⁷In particular, the Sorbonne had opposed the humanist studies of Reuchlin (1514) and Lefèvre d'Étaples (1517-21).

Perhaps the most balanced judgment of the Paris verdict came from Boniface Amerbach in Basle. Writing to his friend and teacher Andrea Alciato on 11 June 1521, Amerbach commented on recent events, including Luther's appearance at Worms and his subsequent abduction, before turning to consider the manifestations of conservatism which Luther's most recent works had provoked:

Edidit...recens plurima: in epistolam ad Romanos commentaria, De libertate christiana, Assertionem omnium articulorum per bullam Leonis damnatorum, in epistolas et evangelia quas Postillas vocant enarrationes, Tessara *δεχάδα* consolationes pro christianis, et quedam alia, imprimisque libellum De captivitate babylonica, quo vnico omnium theologorum noviciorum *πανοηλιν* vt Caecias nubes in suum ipsius caput accersivit.

In view of Luther's efforts to explain his ideas, the responses of Louvain, Cologne and especially Paris were nothing less than contemptible:

Damnarunt aliqua Louanienses, aliqua Colonienses, erroribus (ut ipsi putant) in articulos digestis; damnarunt certe, sed more theologico, nempe tribus aut quatuor verbis: iste articulus est hereticus, hic redolet dogma Montanorum aut aliorum hereticorum, ille est offensiuus piarum aurium, is est scandalosus. Quibus omnibus respondet. Hos subsecuti sunt novissime Parisienses; sed eiusdem farinae est condemnatio. Nihil enim intonat nisi heretica, scandalosa, offensiuia piarum aurium et id genus similia, non adductis scripturis, non labefactatis fundamentis, non redditis assignatorum errorum rationibus. Quod si is modus damnandi posthac hereticos esse debeat, nihil opus erit, tot impensis tot sacerdotum et theologorum fovere collegia; quilibet e capitecensorum numero vel plumbo stupidior vel stolidior caudice vel cui pistillo retusius sit ingenium iisdem verbis iisque conceptis condemnare poterit, ubi non agitur litteris sacris sed vi, non rationibus sed autoritate, non collatione scripturarum sed ligneis fasciculis. Et haec dixerim non quod omnia Lutherana tanquam sacrosancta exosculanda censeam—multa certe paradoxa sunt et dura admodum—, sed quod nullus adhuc theologorum extiterit, qui rationibus et scripturis cum hoc egerit, vel, si qui egerunt (iis abunde responsum est), omnes ceciderit.¹

However unsatisfactory the determination may have been, it did end a period of uncertainty in France. With no faculty decision forthcoming, enthusiasts had been free to obtain Luther's books when and where they could. Despite the efforts of a few printers and publishers, demand continued to outstrip supply: an edition published by Conrad Resch² entitled *Quare pape et discipulorum eius libri a Doctore Martino Luthero combusti sint* was one attempt to cater for the French market, whilst Froben capitalized on his original sales success by publishing three more editions in 1519-20 for

¹ *Die Amerbachkorrespondenz*, ed. A. Hartmann, ii (Basle, 1943), pp. 307-8. Although Amerbach was not unbiased, his remarks show that he was fair-minded.

² Resch was proprietor of twin establishments in Paris and Lyon which displayed the sign of the *Écu de Bâle*. These became principal outlets for prohibited humanist and heretical works in France. On *Quare pape*, cf. W. G. Moore, *La Réforme allemande et la littérature française: recherches sur la notoriété de Luther en France* (Strasbourg, 1930), pp. 55-7.

distribution throughout Europe.¹ After the Bull became known, the possibility of censure stimulated the book market in Paris as elsewhere, and in his letter from the French capital dated 1 November 1520, Glareanus told Zwingli how Luther's writings had lately become extremely popular.² With the *Determinatio* of 15 April 1521, however, allied measures to eliminate Lutheran books and ideas became imminent. Only three months after the announcement of the Faculty's decision, Glareanus wrote wistfully of what had been: 'Ego sane Lütheri pene nulla habeo opera, excepta unica Captivitate Babylonica, quae mihi tam impense placuit'.³

After leaving Worms for Wittenberg late in April, Luther was ambushed on the road outside Möhra and was spirited away to the secrecy of the Wartburg. Luther now belonged to the evangelical cause he had fathered, a situation which had its corollary in France where the Sorbonne's interests became almost exclusively domestic. Directing all its energies towards maintaining the unity of faith in France, the Faculty was henceforward concerned not with the personality and ideas of Martin Luther but with the practical problems posed by *luthériens*. At the session of 6 May 1521, the theologians passed a resolution calling for the eradication of Lutheran ideas in France, and to this end they decided to confer with the Parlement of Paris.⁴ To *parlementaires*, unity of faith was essential to the preservation of an ordered community. Thus the co-operation of magistrate and theologian in the campaign of repression which began in 1521 was an alliance of law dogma: whilst the Sorbonne persecuted heresy in the name of truth, the Parlement prosecuted heretics in the name of national unity.

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¹ Cf. p. 29, n. 4 above.

² *Correspondance des Réformateurs*, i. 63.

³ *Ibid.*, pp. 70-1.

⁴ B.N., nouv. acq. lat. 1782 fo. 69.

Attitudes of Members of the House of Commons to the Regulation of 'Personal Conduct' in Late Elizabethan and Early Stuart England¹

IN THE LATER years of Elizabeth's reign and during the reign of James I and the early years of the reign of Charles I the house of commons heard the reading of numerous bills on matters of personal conduct; among them were regulations against excess in apparel, drunkenness, swearing, bastardy, absence from church and the profaning of the Sabbath. Although the Commons passed bills on some of these subjects, and some of them became law, many of the proposals on the regulation of personal conduct met with opposition in the Lower House. A large number of them were defeated. Many of the bills were redrafted or heavily amended and sometimes carried over from session to session before they received the Commons' approval. Some of the legislation which passed the Lower House may have had the support of only a minority of members, of those who were particularly interested in a bill and consistently present to give it their support; some of the division figures indicate a very small attendance in the Commons.²

The many attempts to legislate on matters of personal conduct are sometimes attributed to a 'Puritan' desire for moral reformation and the Commons' passage of a number of the bills is considered as evidence, in the words of one historian, of 'the middle classes' concern for the morals of the poor'.³ Although it is not possible, due to the fragmentary nature of the

¹I wish to thank Professor Joel Hurstfield, University College London, and Dr. M. M. Tolmie, a former colleague at the University of British Columbia, for reading an earlier draft of this article. I also wish to extend my appreciation to the History of Parliament Trust for permission to consult their manuscript biographies of Elizabethan members of parliament.

The following abbreviations will be used for sources that are frequently cited in this article: *C.D. 1621: The Commons Debates, 1621*, ed. W. Notestein *et al.* (7 vols., New Haven, 1935); *C.J.: Journals of the House of Commons*; *D'Ewes: Journals of all the Parliaments of Queen Elizabeth*, ed. Sir Simons D'Ewes (1682); Foster: *Proceedings in Parliament, 1610*, ed. Elizabeth Read Foster (2 vols., New Haven, 1966); Nicholas: *Proceedings and Debates of the House of Commons in 1620 and 1621* [by E. Nicholas] (2 vols., Oxford, 1766); Salisbury MSS. M485: British Museum microfilm of the Salisbury MSS.; SP 12, 14: Public Record Office, State Papers Domestic, Elizabeth I and James I; Townshend: H. Townshend, *Historical Collections or an exact account of the proceedings of the four last parliaments of Q. Elizabeth* (1680).

²Lists of bills that were read in the Commons in the years 1576-1628, and brief evidence on their reception in the Lower House, are found in Appendices I-V below.

³J. P. Kenyon, *The Stuart Constitution* (Cambridge, 1966), p. 131.

Commons Journals, to compile a complete list of those who introduced and supported the bills, there is evidence that a number of Puritan or radical Protestant¹ members of the Commons were associated with this legislation. The names of Robert Wroth, knight for Middlesex;² William Wiseman, member for Maldon; Francis Hastings, member for Bridgwater; Francis Barrington, knight for Essex; and Francis Darcy, member for Lymington, all of whom seem to have been of Puritan persuasion, along with Edward Montagu, member for Brackley; William Wray, knight for Lincolnshire; William Spicer, burgess for Warwick; George More, knight for Surrey; and Robert Johnson, member for Monmouth Boroughs, who often supported Puritan measures whether or not they were themselves Puritans, were all prominent in 1601 in association with bills on personal conduct. Some of the names, along with those of other Puritans, Nicholas Fuller, member for London; Thomas Hoby, sitting for York; Thomas Crew, member for Northampton; and Walter Erle, member for Poole, re-occur in connection with similar questions in the reigns of James I and Charles I.

A study of the statutes and surviving draft bills, debates on them, and other comments on personal regulation by members of the Lower House would suggest, however, that a 'moral reformation' was not the only object of the legislation; and that social, economic and political considerations were equally, and perhaps more, important than religious and moral considerations among those who supported the bills. Members often seem to have been less concerned about personal morality than about the implications for society of the conduct of the individual. There is some evidence that moral reform, in itself, was regarded by many members as insufficient ground for penal laws regulating men's conduct.

Although the opposition encountered by the bills might suggest that many members objected to the regulation of personal conduct, only a few of them seem to have questioned the merits of interference by the state with the habits of the individual. Disagreements about the bills were not so much the result of differing opinions about the benefits of regulation (with the probable exception of cases where moral reform seemed the only ground for legislation) as they were of conflicting views about government and society. Many of the provisions, even in bills which eventually passed the Commons, occasioned dispute in the Lower House because members had different attitudes to the social structure, to law enforcement and local officers of justice, to the responsibility of heads of households in enforcing discipline and to the relative roles of privy council and parliament in the supervision of men's conduct.

¹The terms 'Puritan' and 'radical Protestant' will be used interchangeably to refer to those who, as nearly as one can ascertain from the available evidence, were not satisfied that the reform of the church, whether in government, doctrine or worship, had proceeded far enough in a Protestant direction. It is not intended that the definition apply to those who were *merely* fervent in religion.

²The constituency of the member will be given only on the first occasion on which he is mentioned, unless a member is referred to in connection with a particular parliament in which he sat for a different constituency.

Drunkenness, swearing, the profaning of the Sabbath and bastardy were all regarded as 'sins' by the ecclesiastical courts which had long enjoyed jurisdiction over these offences; and some of the Puritan gentlemen in the Commons may have been prompted to introduce and support bills on these subjects primarily because of a desire to secure a more effective punishment of sin. Preambles to the bills, and speeches in their support, frequently pointed to the sinfulness of the conduct in question and to the fact that such vices caused the dishonour and displeasure of Almighty God who, it was claimed, would not allow such sins to go unpunished, 'neither in the offenders themselves, nor in us that tolerate the same, but will lay his heavy hand of wrath and indignation upon this land'.¹ Even excess in apparel was regarded as a sin by some members. Moral condemnations of extravagance in dress appear in the writings of several members of the Commons² and Christopher Brooke, member for York, who introduced apparel bills into the Commons in 1614 and 1621, also contended that excessive and costly attire occasioned the disapproval of God, who had dressed men first in skins.³

Although there is a strong moral tone to many of the bills and speeches, most of them offered reasons in addition to religious and moral ones for the regulation of men's conduct. Particular habits were portrayed as not only sinful but offensive and dangerous to the community. It was a concern about the wider social implications of certain personal conduct that probably occasioned support for the bills among the less 'godly' members of the Commons.

The suggestion that some habits contributed to social problems such as idleness and poverty seems to explain much of the Commons' concern about these vices. Several of the bills against drunkenness claimed that this

¹The quotation is from a speech against drunkenness by Francis Darcy in 1601 (Townshend, p. 197). On drunkenness also see SP 12/282 no. 43 (bill of 1601); 4 Jac. I c. 5; *C.D. 1621*, vii. 33-4 (bill of 1621). On swearing, see British Museum, Lansdowne MS. 105 fo. 200 (an undated bill found in a volume of the Lansdowne MSS. which contains a number of bills of Elizabeth's reign); SP 12/282 no. 56, SP 12/283 no. 24 (bills of 1601); speeches by William Wiseman (Townshend, p. 188) and Nicholas Fuller (Foster, ii. 405-6). On church ales and Sunday sports see House of Lords MSS., Main Papers, 17 Feb. 1606, also printed in *Manuscripts of the House of Lords*, new ser., xi. 96 (bill of 1606); 1 Car. I c. 1; 3 Car. I c. 2. On attendance at church see especially the speeches of Francis Hastings, George More and Carew Reynolds, member for Lancaster, in 1601 (Townshend, pp. 274, 275, 319). On bastardy see 18 Eliz. I c. 3 and the speech of William Wiseman in 1601 (Brit. Mus., Stowe MS. 362 fo. 257v. This account attributes the speech to a Mr. Mason, but there was no member by this name; other accounts give Wiseman as speaker.)

²See, for example, George More, *A Demonstration of God in His Workes* (1597), 'Preface to Englande', pp. 9-10; Henry Montagu, *Manchester al Mondo, Contemplatio Mortis et Immortalitatis* (9th impression, 1667), p. 62; William Martyn, *Youth's Instruction* (1612), pp. 108-9. Henry Montagu was member for Higham Ferrers (1593, 1597, 1601) and London (1604, 1614); William Martyn for Exeter (1597).

³*C.J.*, i. 464, 523; *C.D. 1621*, v. 465.

'sin' caused men to become incapacitated so that they were unable to earn a livelihood by their labours or led them to waste that which they did earn, neglecting the needs of their families.¹ Francis Bacon, Francis Barrington, Richard Carew, member for Michael in 1597 and author of the *Survey of Cornwall*, and Henry Cocke, knight for Hertfordshire in 1584, 1586 and 1593, all associated drunkenness with idleness and vagabondage, while Peter Fretchville, knight for Derbyshire in 1621, also drew connections between drunkenness and poverty, although he considered tobacco the original sin.² The objections to bastardy were expressed very largely in terms of its contribution to the problem of poverty. The first statutory provisions against the offence, which formed part of an act of 1576 against idleness and vagabondage, charged that bastards were left to be supported by the parish, overburdening the inhabitants, defrauding of their relief the aged and impotent poor, and encouraging others to a similarly 'lewde lyef'.³ Despite the eagerness of Puritan members like Robert Wroth and William Wiseman to punish the begetting of a bastard as a sin, regardless of its social implications, the provisions enacted by the Commons continued to distinguish between those parents who agreed to provide for the child and those who left it to be maintained by the parish.⁴ Social considerations also enjoyed prominence among the arguments for the regulation of apparel. Drafts of the Elizabethan apparel bills have not survived, but they probably resembled the Elizabethan proclamations, and the earlier statutes on which the proclamations were based, in claiming that extravagance in dress caused confusion of social degrees, the poverty and decline of a number of families, a decay in the practice of offering hospitality to the poor, and that such excess led inferior persons to rob and steal by the highway in order to pay for their vanity.⁵ Christopher Brooke, Francis Bacon and Edward Coke, member for Liskeard in 1621, drew attention to similar social consequences of extravagance in dress, while William Cope, member for Banbury in 1621, assumed that one of the purposes of an apparel bill of 1621 was to prevent gentlemen from wasting their estates.⁶

A concern about public order, about keeping the peace in the countryside,

¹See Salisbury MSS. 142/189, M485/35 (bill of 1604); 4 Jac. I c. 5; also SP 12/282 no. 43 (bill of 1601); 1 Jac. I c. 9; *C.D. 1621*, vii. 33-4 (bill of 1621). Also see very similar comments by Edward Coke in his charge to the Norwich assizes in 1606 (*The Lord Coke His Speech and Charge* (1607), Sig. H2v) and in a letter from one John Hethersall to Robert Cecil in 1601 (Salisbury MSS. 182/53, M485/48).

²*The Letters and Life of Francis Bacon*, ed. J. Spedding (7 vols., 1862-74), vi. 306; *The Works of Francis Bacon*, ed. J. Spedding et al. (1857-8), vi. 224; P.R.O., Prob. 11/154 fo. 70 ff.; R. Carew, *Survey of Cornwall* (1602), fo. 67v; Brit. Mus., Lansd. MS. 76 fo. 133v; *C.D. 1621*, iii. 148.

³18 Eliz. I c. 3.

⁴Brit. Mus., Cotton MS. Titus F. ii fo. 81r-v; Stowe MS. 362 fos. 256v-258; 7 Jac. I c. 4.

⁵*Tudor Royal Proclamations*, ed. P. L. Hughes and J. F. Larkin (1964-9), ii, nos. 601, 623, 646; iii, nos. 697, 786-7.

⁶*C.J.*, i. 523; *C.D. 1621*, iv. 59; v. 465, 497-8; *Letters and Life of Bacon*, iv. 234-5; *The Lord Coke His Speech*, Sig. H2v-H3v; *C.D. 1621*, ii. 115.

also played a part in the demand for the regulation of men's conduct. Both bills and speeches condemned drunkenness and Sunday festivities on the ground that they gave rise to unruly conduct which was subversive of public order. Quarrels, fighting, bloodshed, manslaughter and murder were among the disorders attributed to drunkenness.¹ Similar lists of offences are found in comments on Sunday sports and church ales; even Puritan gentlemen like Francis Hastings seem to have been as much concerned about the disorders attendant on such gatherings as they were about the ungodliness of the festivities themselves.²

Economic considerations found a place in some of the bills and speeches on the regulation of personal conduct. Drunkenness was regarded as one of the causes of scarcity and the high price of grain.³ Several bills which proposed to reduce drunkenness by enforcing certain wholesale and retail prices of beer and ale seem to have been prompted almost exclusively by a concern about the scarcity of grain occasioned by its excessive use in the making of malt. The argument behind the bills appears to have been that brewers, and in turn alehouse keepers, could not profitably sell stronger beer which required more malt and so consumed more grain unless they raised its price.⁴ Economic concerns, which had played some part in the Elizabethan regulations on dress,⁵ appear to have provided the chief motive for new apparel bills, after the repeal in 1604 of all the earlier legislation on the subject. The imbalance in trade and the depressed state of the cloth industry figured most prominently in the speeches of those who advocated the regulation of apparel in the early seventeenth century, and the bills seem to have been designed to meet economic ends, rather than for such purposes as reinforcing the social structure.⁶

Political arguments went hand in hand with the religious and moral reasons that were offered for punishing absence from church. In 1601,

¹SP 12/282 no. 43 (draft bill of 1601); 4 Jac. I c. 5; C.D. 1621, vii. 33 (draft bill of 1621); also see *The Lord Coke His Speech*, Sig. H3v.

²*The Letters of Sir Francis Hastings, 1574-1609*, ed. Claire Cross (Somerset Record Soc., lxix, 1969), pp. 117-18; Carew, fo. 69v; C.D. 1621, v. 16; 1 Car. I c. 1.

³Salisbury MSS. 56/83, M485/11; Townshend, p. 197; SP 12/282 nos. 41, 43 (draft bills of 1601).

⁴SP 12/282 no. 61 (draft bill of 1601); C.D. 1621, vii. 33-6 (a bill read in 1614 and revived in 1621); Townshend, p. 278.

⁵See, for example, a proclamation of 1588 in *Tudor Royal Proclamations*, iii, no. 697.

⁶See C.D. 1621, iv. 59; v. 465, 497-8; C.J., i. 464, 523 for the speeches of Christopher Brooke who introduced the bills in 1614 and 1621; speeches of William Towerson, member for London (C.D. 1621, ii. 115, 422, iii. 395; C.J., i. 584); speech of James Perrot, member for Haverfordwest (C.D. 1621, iii. 449); Dudley Digges, member for Tewkesbury (*ibid.*, iv. 88); and Francis Bacon (*Letters and Life of Bacon*, vi. 22-3; *Works of Bacon*, vi. 223). Drafts of the bills of 1604 are found in House of Lords MSS., Main Papers, 26 Apr. and 14 May 1604 (also printed in *Manuscripts of the House of Lords*, new ser., xi. 69-70, 72-3). Some idea of the provisions of a bill of 1614 can be gleaned from C.D. 1621, vii. 629; those of two bills in 1621 from *ibid.*, iii. 35-6, Brooke's speeches cited above, and Nicholas, i. 276, C.D. 1621, iv. 241; and of a bill of 1626 from C.J., i. 850, 853, 855-6, 864.

when there were attempts to revive the shilling penalty provided in the Act of Uniformity of 1559 by substituting presentment before the justices of the peace for indictment before the justice of assize,¹ some members tried to convince the Commons of the political as well as the religious desirability of such legislation. Francis Hastings, George More, Francis Darcy, John Bennett, member for York, William Knollys, comptroller of the household and member for Oxfordshire, and probably Robert Wroth, who introduced one of the bills, appealed to the Protestantism and patriotism of their fellow members; they spread alarm about the large numbers of Catholic recusants among the poorer sort who, they claimed, would be forced to church by such legislation, they drew connections between religious duty and civil obedience and they reminded the House of its continuing responsibility for the maintenance of the true religion.²

Social, economic and political arguments in favour of the regulation of personal conduct did not, as far as one can tell from the surviving evidence, occasion opposition in the house of commons; but there is some evidence to suggest that the proposed penal laws met with stronger objections when members considered that moral reform was the only ground for legislation. Attempts to secure bills against swearing and in 1601 against absence from church, offences which some members seem to have regarded as purely moral in character, led to disagreements in the Commons about the relative roles of the church and the temporal government in the ordering of men's lives.

Some of the bills and speeches on drunkenness and the profaning of the Sabbath as well as those against swearing and absence from church, made a particular point to defend secular interference in the regulation of such conduct. Several of the proposed laws against swearing and drunkenness, for example, attributed an increase in these vices to the fact that there was no penal law against them,³ a claim which perhaps reflected a Puritan belief that the ecclesiastical courts and the penalty of penance were ineffective in deterring sin.⁴ The speeches of William Wiseman, George More, Nicholas Fuller, John Strode, member for Bridport in 1621, and Edwin Sandys, member for Sandwich in the same parliament, against swearing;⁵ George More against drunkenness;⁶ Francis Hastings, John Bennett and Nicholas

¹A draft of the second bill of 1601 against absence from church is found in SP 12/283 no. 16. For further details on the chronology of the two bills, see J. E. Neale, *Elizabeth I and her Parliaments* (1953-7), ii. 396-406.

²Townshend, pp. 227, 228, 254, 274-5, 276, 319.

³Brit. Mus., Lansd. MS. 105 fo. 200 (undated bill against swearing); SP 12/283 no. 24 (bill of 1601 against swearing); SP 12/282 no. 43 (bill of 1601 against drunkenness).

⁴On Puritan attitudes to the ecclesiastical courts see C. Hill, *Puritanism and Society in Pre-Revolutionary England* (1964), chs. viii-x.

⁵Townshend, p. 188; *C.J.*, i. 584; Foster, ii. 405-6; *C.D.* 1621, ii. 162; *C.J.*, i. 537, 548.

⁶Townshend, p. 181.

Fuller against absence from church and Sunday sports¹ also contained claims that penal laws against these offences were both appropriate and necessary.

In the case of drunkenness and of the profaning of the Sabbath, vices that had social or economic as well as moral implications, the inclusion of provisos assuring to the ecclesiastical courts a continuing power to impose penalties for such offences was apparently sufficient to satisfy objections that the state was interfering with the jurisdiction of the church. Provisos of this kind seem to have formed part of the initial provisions of bills against Sunday sports and church ales² and were added to several of the bills against drunkenness.³

Swearing and absence from church presented a different case; some members argued that these were purely moral offences and therefore that they fell within the province of the church and not of the temporal authorities. Some of the objections to penal legislation against swearing came from the Lords where in 1610 the archbishop of Canterbury, supported by Lord Chancellor Ellesmere and Lord Zouch, claimed that the clergy knew better than the members of the Commons what it meant to take the Lord's name in vain, that penance and preaching were the best means of reform, and that a penal law against swearing took away powers that properly belonged to the church.⁴ There is some evidence of similar views in the Commons. In 1601 Edward Glascock, a young lawyer of Gray's Inn and member for Sudbury, had argued that swearing was a moral matter and not a proper concern of the secular arm of government.

Man is made of two parts, a soul and a body; and there are two governments, one imperial, the other sacerdotal; the first belonging to the common-wealth, the other to the church. Swearing is a thing moral and toucheth the soul; and therefore fitter to be spoken of in a pulpit than a Parliament.⁵

The rather persistent opposition of a large minority in the Commons to a penal law against blasphemy may have stemmed in part from the fact that members, like Glascock, regarded swearing solely as an offence against God and not as a habit that was dangerous to the community.⁶

Church attendance, like swearing, seemed to some members in 1601 a matter for the clergy and the church courts. During the earlier years of

¹*Ibid.*, pp. 228, 254, 319; Foster, ii. 408.

²House of Lords MSS., Main Papers, 17 Feb. 1606; *C.D.* 1621, iv. 33; House of Lords MSS., Main Papers, 6 March 1624; 1 Car. I c. 1; 3 Car. I c. 2.

³*C.J.*, i. 327, 328, 346; 4 Jac. I c. 5. Also see SP 12/283 no. 4 and compare with SP 12/282 no. 43.

⁴Foster, i. 129, 247-8.

⁵Townshend, p. 267.

⁶There appears to have been considerable opposition in the Commons to a bill against swearing although the bills usually passed the Lower House. In 1601 a bill was thrown out by the committee and the new one they drafted was in turn heavily amended. A bill of 1604 was passed by only 35 votes on a division of the House and in 1610 a bill was opposed at its third reading.

Elizabeth's reign when the government faced the task of imposing a Protestant religious settlement on a country newly and only partially reconverted from Catholicism, when Catholic plots at home and abroad seemed to threaten the political stability of the realm, the Commons found political as well as religious reasons for imposing a penalty of one shilling a week for absence from church and later a fine of £20 on those who did not show outward conformity by attending church once a month.¹ However, in 1601 a slight majority of members were not convinced by arguments that it was politically necessary to punish absence from church and they contended that the situation was very different from that in 1559 when the shilling penalty had been imposed. John Bond, member for Taunton, argued that in 1559 'the people were newly taken from massing and superstition' but that they were now 'planted in truth and rooted in religion'.² Not only were there claims that new laws against recusancy were unnecessary, but some members seem to have doubted that the bill was intended primarily for recusants. Francis Moore, member for Reading, suggested that the provisions were designed to discipline those who were 'well addicted' but negligent in coming to church;³ to purely moral regulation by the secular arm of the state many members seem to have been opposed. Several of them objected to the justices of the peace meddling in ecclesiastical causes. George Carew, member for St. Germans, claimed that such a matter could more appropriately be committed to the parson,⁴ while John Bond contended that the enforcement of church attendance by penal statute would reflect unfavourably on the church hierarchy; if the state intervened in the matter it would be thought that the ministers were unable to retain their congregations and that the ecclesiastical censures of the archbishops and bishops commanded less obedience than a 12*d* fine.⁵ Members' primary concern with the political aspects of church attendance seems to be confirmed by the fact that in 1606, after the scare of the Gunpowder Plot, the Commons did enact provisions, similar to those proposed in 1601, for the enforcement of the shilling penalty.⁶

The differing views in the Commons about the regulation of social conduct were not, however, confined to matters which could be passed off as moral reform, and therefore the province of the church. Members raised objections to certain aspects of the bills against excess in apparel, drunkenness, bastardy and the profaning of the Sabbath as well as to certain provisions in the bills against swearing and absence from church, often to features that were common to the proposals on a number of these subjects. In the debates and in the amendments to the bills they revealed differing social and political attitudes which were the source of most of their disagreements about the proposed legislation.

In the first place, members of the Commons were not agreed about the levels in the social hierarchy to which the regulations were to apply, and

¹ 1 Eliz. I c. 2; 23 Eliz. I c. 1.

² Townshend, p. 318.

³ *Ibid.*, p. 228.

⁴ *Ibid.*, p. 229.

⁵ *Ibid.*, p. 318.

⁶ 3 Jac. I c. 4.

their differences on this question reflect conflicting views about the social structure. Some of the bills attributed the offences which they were designed to punish particularly to the meaner sort of people and were probably meant largely for the discipline of the poor. Other bills seem to have been intended for the regulation of the conduct of all classes in society; in at least one case the penalties were graded according to the social degree of the offender, while several bills allowed for a range of penalties though it was not stipulated that they be imposed in accordance with social position. A number of members regarded such provisions as a threat to the maintenance of social distinctions. In particular, they feared that the regulations would be applied to 'gentlemen' or 'the better sort', and they considered it inappropriate to punish these classes for such offences.

Bills against drunkenness tended to attribute this vice particularly to 'the woorst and inferior sort of people',¹ and with fines ranging from 3s 4d to 5s and until 1621 restricted in application to drinking in an alehouse in one's own town where one could not be considered a traveller, the bills probably did not pose a serious threat to gentlemen. However, occasionally there was concern in the Commons that the provisions might be applied to the better sort. In 1601 Edward Glascock voiced such fears when he asked whether a bill (which according to Townshend proposed to threaten with a fine equivalent to his subsidy assessment any man who went to an alehouse within two miles of his own house) was intended to apply to gentlemen. Glascock pointed out to the House 'that it was a common and usual thing in Lancashire and those parts for gentlemen as they go a hawking to go and take a repast at an alehouse; yea, men sometimes of 500 marks a year', and he expressed hope that such men were not intended to come within the provisions of the bill.² The bill appears to have been replaced with a new one which eliminated both the two-mile limit and the fine based on subsidy assessments.³

In 1621 some members of the Commons detected a similar threat to the social structure in a bill empowering a justice of the peace to convey drunkards and disordered persons, along with rogues and vagabonds, to a house of correction. George More, Edward Alford, member for Colchester, and Dudley Digges all argued that the bill was dangerous because it might result in 'the son of a good man' or 'men of best quality' being sent to a house of correction to be whipped, and they regarded such a punishment as inappropriate for gentlemen.⁴ A proposal of 1593 to empower the justices to 'stock', 'whipp' and 'imprison' the parents of bastards 'at their discretions' met with similar opposition because of the fear that these penalties might be applied to the better sort. Some members argued that the punishment was 'slavish' and that it should not be inflicted on a 'liberall man',

¹ See for example, SP 12/282 nos. 41, 43. Also see Foster, ii. 280, a document in which James I ascribes drunkenness particularly to the 'meaner sort'.

² Townshend, pp. 196-7.

³ SP 12/283 no. 4, apparently a new bill with the same title.

⁴ C.D. 1621, iii. 426-7; C.J., i. 630; Nicholas, ii. 191.

while Henry Unton, knight for Berkshire, pointed out that 'gentlemen or men of quality' might find themselves guilty and he claimed that they should not be 'putt to such a shame' as to be whipped.¹

Some members of the Commons perhaps saw a threat to the better sort in one of the bills against swearing in which the penalties and the manner of conviction were graded according to the social degree of the offender, and which extended to both noblemen and gentlemen. The bill was passed by the Commons in 1610, but penalties based on social distinctions were not repeated in future bills.² In 1621 the Commons remained unmoved both by the argument of Edwin Sandys that a bill against swearing required a proviso to reach the great of the land whose example had occasioned the abuse and 'who will hardly be towch't with soe small a penaltie', and by the suggestion of Edward Montagu, knight for Northamptonshire, that they examine the earlier bill based on distinction of degrees. The original provisions in the bill, which had allowed the justices to use their discretion in imposing a fine between 12*d* and 10*s*, were amended and the penalty was fixed at 12*d*.³ If, as Sandys declared, 10*s* would not touch men of quality, the Commons cannot have expected that 12*d* would do so; perhaps that was their intent.

The early seventeenth-century bills against excess in apparel also seem to have been regarded by some members as a threat to the very social distinctions which earlier bills had been designed to mirror and reinforce. Social and economic considerations had gone hand in hand in the Elizabethan proclamations and the earlier acts on apparel, but in James's reign the regulations demanded by economic interests do not seem to have coincided with provisions acceptable to those concerned about social distinctions. In 1604 the Lords protested against the infringement by a Commons' bill of their right to be apparelled in gold and silver and they drafted a new bill extending to those above the degree of barons of parliament and their wives the exemption which had been restricted to the royal family.⁴ In the years to follow, the apparel bills initiated in the Commons met with opposition in that House from gentlemen who apparently did not wish to sacrifice the outward signs of their social status to the improvement of the balance of trade.⁵ Edward Duncombe, member for Tavistock, complained that a bill of 1614 prohibiting gold and silver apparel would

¹Brit. Mus., Cott. MS. Titus F. ii fos. 79, 80v-81. The speech is attributed to John Unton, but only Henry Unton appears to have been a member of this parliament.

²The Commons' engrossed bill is found in House of Lords MSS., Main Papers, 21 June 1610.

³C.D. 1621, ii. 203-4; iv. 141-2; C.J., i. 548; 21 Jac. I c. 20.

⁴House of Lords MSS., Main Papers, 26 Apr. and 14 May 1604.

⁵For a discussion of the apparent conflicts over the regulation of apparel between different trading interests represented in the House, as well as those between men concerned about trade and those concerned about social distinctions, see Joan Kent, 'Social Attitudes of Members of Parliament with Special Reference to the Problem of Poverty, circa 1590-1624' (unpublished London Ph.D. thesis, 1971), pp. 401-6.

deprive the gentry of their gilt swords.¹ Others may have joined in the protest, because the bill of 1621 specifically exempted knights in their gilded spurs. At its second reading, possibly in an attempt to silence further knightly opposition, Christopher Brooke moved to extend the concession to knights' gilded rapiers.² One suspects that few gentlemen agreed with George More when he claimed that the bill did not provide sufficient distinction between lords and gentlemen.³ The other apparel bill of 1621, which would have coupled the gentry with servants and apprentices and legislated them all into cloth, also encountered opposition from at least one gentleman concerned to preserve the distinctions in dress between himself and those below him and to close rather than accentuate the gap between himself and the nobility. John Jephson, knight for Hampshire, was probably not alone in his view that,

Although the honour and difference betwixt the nobility and us was confessed, yet there was noe reason there should be soe much as is betweene silk and cloth and soe little left betwixt us and our servants as betwixt October and May a gentleman should not know his wife from his chamber-mayde.⁴

It is interesting to note that in 1622 when a committee on trade, composed of privy councillors, proposed similar regulations for the wearing of cloth they suggested that the nobility and gentry be persuaded to wear cloth in winter 'by example rather then by comaund' and that only 'the meaner sorte of people' be obliged by proclamation to do so.⁵

The fear in the Commons that bills regulating social conduct might be applied to gentlemen stemmed in large part from a distrust of the justices of the peace. A majority of the bills proposed to empower one or two justices out of sessions to secure convictions, usually on the evidence of two witnesses on oath but sometimes on their own view or the confession of the party, thus allowing them a greater degree of personal discretion than would have been possible in trial before the Bench. Some members feared that one or two justices, if given such powers, would act out of malice or ill will, passion or self-interest, and that they would show little regard for social distinctions in the exercise of their authority. Henry Unton's concern in 1593 that gentlemen would be punished under the bastardy laws stemmed in part from the fact that their enforcement was left to two justices who, he claimed, might be prompted by malice to convict those accused by whores.⁶ George More's fear that gentlemen who were disordered or drunk might be sent to a house of correction to be whipped was occasioned by his distrust of the summary jurisdiction of one justice.⁷ In 1621 a Mr. Griffith⁸ opposed provisions

¹*C.J.*, i. 472.

²*Ibid.*, p. 584.

³*Ibid.*; *C.D.* 1621, iii. 36.

⁴*C.J.*, i. 584; *C.D.* 1621, iv. 241.

⁵*Brit. Mus.*, Stowe MS. 554 fo. 48v.

⁶*Brit. Mus.*, Cott. MS. Titus F. ii fo. 81.

⁷*C.D.* 1621, ii. 432.

⁸John Griffith, knight for Caernarvonshire, and Nicholas Griffith, member for Caernarvon Boroughs, were both members of this parliament.

empowering one justice, on his own view or on the evidence of only one witness (where previously two had been required), to convict drunkards and haunters of alehouses, claiming that it might 'be done upon malice'.¹ The Commons amended a bill of 1626 for the suppression of unlicensed alehouse keepers so that two witnesses rather than one were needed to secure a conviction.² Further evidence of the Commons' concern to prevent the justices out of sessions from enjoying a completely free hand in the punishment of drunkenness is found in an act of 1607; unlike earlier bills which did not pass the Commons, it ordered that offences be heard from time to time in assizes, quarter sessions and courts leet, and it extended this provision to an act of 1604 against alehouse keepers who allowed drunkenness in their houses.³ A new act against drunkenness in 1624 confirmed and renewed the measure.⁴

Similar concern about the actions of one or two justices out of sessions is reflected in the debates on the bills against absence from church. John Bond opposed empowering the justices to punish this offence on the ground that they would act out of passion and self-interest rather than justice. 'Who almost are not grieved at the luxuriant authority of Justices of Peace?... For magistrates are men, and men have alwayes attending on them two ministers, *libido* and *iracundia*. Men of this nature do subjugate the free subject'.⁵ George Carew asserted that 'it is no policy that Justices of the Peace should have such power over their neighbours', while Roger Owen, member for Shropshire, claimed that in providing for conviction on the evidence of two witnesses before the justices out of sessions, the bill infringed Magna Carta which ensured 'tryal *per pares*'.⁶ It was probably in response to such objections that the committee amended the second bill against absence from church, which had originally provided that offences could be heard either in quarter sessions or before two or three justices, so that cases were to be heard only in sessions.⁷

The justices' likely abuse of summary jurisdiction was sometimes attributed to the inferior origins of many who held the office and to their desire to use it for personal profit. George More referred to 'the meanness of many [justices] in these days', while Dudley Digges claimed that contemptible persons were put into the commission and he suggested that their poverty led some of the justices to propose such things as the patent for alehouse recognizances.⁸ In a long diatribe to the house of commons in 1601 Edward Glascock also criticized both the mean origins of the justices and the poverty of many of them,⁹ and in another speech of the same parliament he opposed entrusting to the justices the enforcement of a bill against swearing.¹⁰ He referred to them as the 'basket-justices' who 'for half a dozen of chickens will dispence with a whole dozen of penal statutes' and he concluded that these officials would exercise their authority in matters of

¹C.J., i. 532.²*Ibid.*, p. 855.³4 Jac. I c. 5; 1 Jac. I c. 9.⁴21 Jac. I c. 7.⁵Townshend, p. 275.⁶*Ibid.*, pp. 229, 273.⁷SP 12/283 no. 16. ⁸C.D. 1621, ii. 119, 432; Nicholas, i. 79.⁹Townshend, pp. 327-9.¹⁰*Ibid.*, p. 268.

personal conduct for their private profit. 'Why, we have had here five bills: one against swearing, another for going to church, good ale, drunkenness and ———; this is as good to them [the justices] as a subsidy and two fifteens'. Edwin Sandys, though a firm supporter of legislation against swearing, seems to have shared Glascock's view of the justices; he claimed that a bill of 1621 against swearing required 'some other conservators then Justices of Peace'.¹ Thomas Holcroft, knight for Cheshire, speaking on a bill of 1606 for the keeping of the Sabbath gave a slightly different twist to the charge that the justices sought to profit from the office. He claimed that they would not distribute fairly the fines they collected under the bill, designated for the poor of the parish where the offence was committed. Holcroft pointed out that in the north some parishes contained from ten to forty towns and villages and he accused the justices, on evidence of their action under earlier statutes, of using the fines they collected from prosperous villages under good lords to relieve their own tenants in villages which they had reduced to beggary by their racking of rents.²

A distrust of the summary jurisdiction of the justices is perhaps also reflected in amendments to the penalties in the bills; provisions allowing the justices a certain discretion to determine the penalty were abandoned in favour of definite fines. George More and Thomas Crew objected to the arbitrary nature of the penalty in a bill of 1621 against swearing, originally a fine between 12*d* and 10*s* to be determined by the justices, and perhaps in response to their comments the fine was fixed at 12*d*.³ Similar changes in the penalties, whether fines or time in the stocks, were made in some of the bills against drunkenness and also in bills of 1601 against swearing.⁴ The Commons were perhaps also reluctant to empower two justices out of sessions to commit men to gaol as a punishment for such offences. Several bills which initially provided punishment by imprisonment for third offences and gaoling for refusal to pay fines were amended so that offenders were instead to be bound to appear at quarter sessions, while the fines of those who refused to pay were to be levied by distress.⁵ In 1593 some members insisted that two justices could not imprison the parents of bastards as a punishment but only as a means of securing them until the next sessions.⁶ The opposition to imprisonment as a punishment may, on the other hand, reflect only a concern about overburdening the inadequate gaols of the time.

Occasionally one also encounters opposition to the powers assigned to minor officials under proposed bills regulating social conduct; perhaps it

¹C.D. 1621, iv. 142.

²*The Parliamentary Diary of Robert Bowyer*, ed. D. H. Willson (Minneapolis, 1931), p. 35.

³C.D. 1621, ii. 204; iv. 141; C.J., i. 548; 21 Jac. I c. 20.

⁴SP 12/283 nos. 4, 24; compare House of Lords MSS., Main Papers, 27 Nov. 1606, a Lords' bill probably similar in content to an earlier Commons' bill that had been rejected by the Upper House, with 4 Jac. I c. 5.

⁵SP 12/283 no. 4; SP 12/282 no. 56; SP 12/283 no. 24.

⁶Brit. Mus., Cott. MS. Titus F. ii fo. 79.

was feared that in executing the provisions they would show even less regard than would the justices for the preservation of social distinctions, and that their relative poverty would lead them to use their authority for personal profit. In 1610 John Mallory, member for Ripon, urged the Commons to include in their petition of grievances to the Crown a complaint about penal statutes being executed by common men,¹ and similar attitudes are reflected in some of the debates on the regulation of social conduct.

Several members questioned the wisdom of allowing so much authority to the churchwardens under the proposed legislation of 1601 enforcing attendance at church. These officials had previously been responsible for presenting offenders, though before the justices of assize rather than the justices of the peace, and for levying the fines, so their role had not changed. However, some members apparently believed that it would be easier for the churchwardens to secure convictions under the bills of 1601, and that they would abuse their powers. Richard Brown, member for Cirencester, argued that the churchwarden might succumb to bribery and corruption, secretly keep a list of offenders and instead of paying over the shilling penalty retain perhaps 4d for himself.² John Bond was similarly opposed to conferring such powers on the churchwarden, and he pointed out that if this official presented some offenders and not others it would 'be a great breach of unity and peace' as 'partial connivance [would be] subject to quarrel'.³ Walter Raleigh too objected to 'giving authority to a mean churchwarden'.⁴

There was similar opposition in the Commons to the role assigned to minor officials under some of the apparel bills. Members objected to the 'manner of execution' provided in a bill brought from the Lords in 1576 because authority was given to any officer 'were he never so inferior' to arrest offenders and take from their backs the unlawful garment. The reports from the Commons' committee presented at a joint conference with the Lords claimed that this would prove 'cumberous and quarrellous and sometymes iniurious' for inferior officials would 'light upon men, though unknowne to them, yet of sufficient ability to iustify the wearing of thoes garments as they challenge which must of necessity breed great contention and strife'.⁵ Similar complaints were voiced in the Commons in 1614 and 1621 about provisions empowering knight marshal's men, bailiffs, and serjeants as well as sheriffs to seize the apparel from the offenders. In introducing the bill of 1614 Christopher Brooke had attempted to allay opposition on this point but Edward Duncombe claimed that the provisions left men 'as a prey to catchpowles', and that there was consequently a 'danger of effusion of blood'.⁶ In 1621 Edward Alford also objected to knight marshal's

¹Foster, ii. 359. ²Townshend, p. 229. ³*Ibid.*, p. 318. ⁴*Ibid.*, p. 320.

⁵Brit. Mus., Sloane MS. 326 fos. 15-18v. This document is included in a collection of speeches of Sir Walter Mildmay, who acted as the Commons' spokesman at the conference with the Lords. Another copy is found in Brit. Mus., Cott. MS. Titus F. ii fos. 198-199v. Also see Neale, i. 354-5.

⁶C.J., i. 464, 472.

men being empowered to seize unlawful apparel.¹ Henry Poole, member for Malmesbury, opposed a provision in the bill of 1621 for the wearing of cloth which empowered constables to seize unlawful apparel; the fact that minor officials such as constables and overseers of the poor were authorized to enforce the statute, and convey offenders to gaol until they had paid a fine equivalent to the value of the garment, perhaps accounts for some of the opposition to that bill.²

Although the justices of the peace and other officials were charged with executing the bills and collecting the fines, some of the legislation proposed to make heads of households responsible for the discipline of their families and servants and answerable for the penalties when their dependents disobeyed the law. Such provisions met with opposition from gentlemen who apparently objected to acting as officers of justice in their own households and to bearing financial responsibility for the lapses of their families and servants.

Lord Chancellor Ellesmere, speaking in the Lords in 1610, claimed that the provisions in a bill against blasphemy making masters answerable for the offences of their children and servants, on threat of being sent to gaol until they paid the 5s fine, would cost noblemen and gentlemen 'much at the year's end'.³ Some members of the Lower House perhaps shared his concern because later bills against blasphemy seem initially to have made no special provision for the punishment of children and dependents. In 1621 a clause added after debate at the second reading, in which Edwin Sandys argued that masters and fathers should be made responsible for punishing blasphemy in children, was possibly a compromise; it provided that those under twelve be whipped by the constable or by the parents or master in the presence of the constable, placing the responsibility on the constable rather than the parents.⁴ Several members voiced opposition to provisions, in the first of two bills of 1601 concerning absence from church, which made husbands responsible for the attendance of their wives and masters for that of their servants;⁵ they seem to have been unmoved by the arguments of John Bennett that it was the Christian duty of fathers and masters to see that their children and servants attended church. Anthony Dyott, Recorder and member for Tamworth, probably voiced the fears of a number of members, particularly those with recusant wives, when he declared: 'Every man can tame a shrew but he that hath her: perhaps she will not come; and for her willfulness no reason the husband should be punished'. Edward Hoby, member for Rochester, also spoke against this clause in the bill, while Robert Cross, member for Saltash, asked if a man who was absent at the wars or in London on business must still pay for the absences from church

¹*Ibid.*, p. 584.

²Nicholas, i. 276; *C.D.* 1621, iii. 36.

³Foster, i. 248.

⁴*C.D.* 1621, ii. 203-4; *C.J.*, i. 548; 21 Jac. I c. 20.

⁵Townshend, pp. 224, 228, 229.

of his wife and servants. In response to the objections, according to Townshend, the committee added a clause authorizing service at home as a substitute for church attendance, and when a new bill was drafted it omitted any provisions regarding the responsibility of husbands and masters.¹

A speech made in 1606 by a Mr. Saville² further attests to the reluctance of masters and heads of households to bear responsibility for the conduct of their servants and children. Saville opposed the penalty of stocking for those who could not pay the fine in a bill against Sunday sports, claiming that children and servants, who were frequent offenders and who would not have the 10s for the fine, would be put in the stocks because their fathers and masters would refuse to pay for them. This, he argued, would result in them being 'publiquely defamed', cast off by their fathers and masters as 'not fit for honest company', leading them in the end to the gallows.³

The difficulties encountered in gaining the passage of bills on two questions of social conduct, apparel and drunkenness, seem to be explained in part by conflicts between the house of commons and the government. The Elizabethan bills against excess in apparel, most of them introduced into the Lords, and the first bill on dress read in the Commons in 1604 as well as a number of bills proposing to suppress drunkenness by stricter regulations on brewers, alehouse keepers, victuallers, innkeepers and vintners, seem to have been government measures. The house of commons defeated most of these bills, apparently in part because they saw in the provisions a threat to parliamentary regulation of these matters. When the government did issue orders, patents and proclamations containing new regulations on inns and alehouses, the members of the Commons were loud in their protests; there probably would have been a similar response to a proclamation on apparel drawn up in 1616, had it been issued.

In the case of apparel, the government and the house of commons appear to have been united only in their belief that the previous statutes on dress should be repealed. Several of the bills, both those introduced into the Lords and those drafted by the Commons in substitution for the original bills, contained provisions for the repeal of earlier acts which both the government and the Commons claimed had become burdensome and unenforceable.⁴ The house of commons finally gave its assent to a bill of 1604 (which occasioned protracted debate at the third reading) 'specially for this reason', wrote the clerk, 'for that it repealeth all former laws touching apparel'.⁵ The bill did not receive royal assent; and the only provision on apparel to become law in the period 1576 to 1604 was a clause

¹Townshend, pp. 227, 254; SP 12/283 no. 16.

²John Saville, knight for Yorkshire, and Henry Saville, member for Aldborough, were both members of this parliament.

³*Parliamentary Diary of Bowyer*, p. 35.

⁴Brit. Mus., Cott. MS. Titus F. iv fo. 51-v; House of Lords MSS., Main Papers, 26 Apr. and 14 May 1604; *C.J.*, i. 152.

⁵*C.J.*, i. 245.

in the act for continuation and repeal of statutes in 1604 which withdrew all previous regulations on dress without replacing them.¹

The government's object was apparently to secure the repeal of the existing acts and to transfer, under statutory authority, the regulation of apparel from parliament to the Crown and council; to such provisions the Commons was unalterably opposed. When a bill of 1576 proposed to empower the government to regulate apparel by proclamation, the Commons protested that 'the subjects of the land have not byn heretofore bound to any thing but unto such as should be certeynly established by authority of Parliament' and they claimed that giving a proclamation from the prince the force of law was a dangerous precedent.² A similar reaction greeted the first of three apparel bills read in 1604. The Commons' clerk recorded that the bill 'by sundry members of the House was specially misliked' because the king 'by his proclamation under the Great Seal of England might limit all degrees of persons etc.', and the bill was rejected at its first reading on a division of the House.³ Despite the opposition to regulation by proclamation, the government later considered acting by that means. Francis Bacon, in a letter addressed to James I in 1616, urged the king to issue a proclamation for the wearing of cloth in order to assist the declining cloth trade.⁴ Such a proclamation was drawn up but not published, perhaps because of the lobbies against it by those whose trading and manufacturing interests would have been affected.⁵ Probably the members of the Commons would have added their voices to the chorus of protest had the proclamation been issued.

There appears to have been equally firm opposition in the Commons to the interference of the Crown and privy council in the suppression of drunkenness, though the nature of the surviving evidence makes it difficult to speak with certainty on the subject.⁶ The Commons passed several bills

¹ 1 Jac. I c. 25.

² The discussion of the bill of 1576 is based on Sir Thomas Mildmay's account of the conference between the Commons and the Lords (Brit. Mus., Sloane MS. 326 fos. 15v-16). The bills of 1589 and 1597 perhaps contained similar provisions. They too occasioned dispute between the Commons and the Lords, but the nature of their differences is not clear from the brief references to the bills in the diaries and journals; see D'Ewes, pp. 424, 447, 450, 452, 454, 588, 594; Townshend, p. 125.

³ *C.J.*, i. 152. W. Hooper, 'The Tudor sumptuary laws', *Eng. Hist. Rev.*, xxx (1915), 449 also draws attention to the Commons' opposition to regulation by proclamation, though Hooper was apparently not aware that this was the case in 1576 as well as in 1604.

⁴ *Letters and Life of Bacon*, vi. 74.

⁵ *Tudor and Stuart Proclamations, 1485-1714*, ed. R. Steele (Oxford, 1910), i, no. 1189; petition of the Mercers of London, Brit. Mus., Hargrave MS. 321 fos. 100v-102; letter from Nathaniel Brent to Dudley Carleton commenting on the reaction in Cheapside to the rumour that such a proclamation was to be issued, SP 14/89 no. 55. I am grateful to Professor J. F. Larkin for confirming to me that the proclamation was not published.

⁶ The general deductions in this and the following paragraph are based on drafts of the government orders on alehouses issued in 1607-8, and of the letters which accompanied them, drafts of revised orders issued later in 1608 and letters which

penalizing drunkards and haunters of alehouses and also alehouse keepers who allowed drunkenness in their houses,¹ but a large number of bills, apparently designed at least in part for the suppression of drunkenness but by the more indirect means of a closer regulation of brewing and of the licensing of houses which sold ale, beer and wine, met with little success in the Lower House.² A similarity in content between the few surviving bills (and what, from their titles, would appear to be the provisions of other bills), and the orders issued by the government in 1607-8 would suggest that at least some of the many bills were officially sponsored. It appears that the government, having failed in 1601 and 1604 to gain parliamentary approval for its proposals, resorted to orders issued under the royal prerogative and later to patents for the regulation of alehouses and the licensing of inns, reinforced by proclamations.

The government's objective was apparently to bring the licensing of the sale of ale, beer and wine more firmly under government control. Alehouse licences were to be issued annually by the justices in sessions, where previously two justices out of sessions had enjoyed similar powers,³ the clerk of the peace was to keep a book of licences, each page to be signed by the justices and a copy of the book forwarded to the privy council. There were also suggestions, seemingly reflected in some of the bills read in the Commons, that the system of licensing be extended to inns and taverns.⁴ Finally, there were proposals, taken up by the government in its orders of 1607-8, to make the licensing a source of royal revenue. The government was, at least initially, prepared to continue its use of the justices as local

indicate the reasons for the revisions (Brit. Mus., Cott. MS. Titus B. iii fos. 2-21v; there are also printed copies of the orders in the British Museum, *Articles of Direction Touching Alehouses* (1607), *Articles of Direction Touching Alehouses* (1608)); a draft bill of 1601 in SP 12/282 no. 41; debate in the Commons in 1601 on a bill brought from the Lords (Townshend, pp. 285-6, 304-6); a draft bill of 1604 and a proposal (perhaps submitted to Salisbury) on which the bill appears to be based (Salisbury MSS. 142/189, M485/35; 189/60, M485/50). The Salisbury MSS. also contain a letter of 1601 from one John Hethersall to Cecil suggesting the grant of a commission for the reform of alehouses and the letter is followed by a draft of a commission for the purpose (Salisbury MSS. 182/53, 54, M485/48). Also see a proclamation of 1600 ordering the justices of the peace to suppress unnecessary alehouses (*Tudor Royal Proclamations*, iii, no. 800). For abstracts of the Jacobean patents for the forfeiture of alehouse recognizances and the licensing of inns, and other documents relating to the grants, see *C.D. 1621*, vii. 312-22, 379-87.

¹ SP 12/283 no. 4; 4 Jac. I c. 5; 21 Jac. I c. 7; 1 Jac. I c. 9; 1 Car. I c. 4.

² See Appendix II, and particularly the bills read in 1604.

³ The system of licensing alehouses that was in force in the late 16th and early 17th centuries was based on an act of Edward VI's reign, 5 & 6 Ed. VI c. 25.

⁴ Innkeepers had apparently not required licences, though the justices of assize seem to have enjoyed supervisory powers over these houses. Taverns were regulated by an act of Edward VI's reign, 7 Ed. VI c. 5, which set down the retail prices of wine and provided that it was to be sold only in taverns, those in cities and towns corporate to be licensed by the town authorities and those in towns that were not corporate by the justices of the peace in sessions. The act restricted the number of taverns to two per town, with certain stated exceptions, e.g. London, 40, York, 8.

licensing agents, but was seemingly intent on bringing these officials under closer privy council supervision. However, James I and his ministers and favourites later by-passed them and entrusted much of the regulation of inns and alehouses to patentees. Although the chief motive for the grant of such patents may have been the financial reward of certain courtiers rather than a desire to reform inns and alehouses by placing control over them in more disinterested hands than those of the justices, it resulted none the less in the authority of local officials being superseded by that of projectors backed by royal proclamations.

The Commons' objections to the licensing proposals, in the period prior to the grant of the patents, took a number of forms. They argued that licensing in sessions would be cumbersome and inconvenient both to the justices and to those seeking licences and claimed that there was no fault in the previous laws.¹ They contended that the new proposals would result in greater abuses rather than in a reform of alehouses and that those who currently operated such houses might be unfairly deprived of their licences.² The extension of the licensing system to taverns and inns, argued some members, would be an infringement of the privileges of corporations and of the rights of innkeepers, as innkeeping was a free trade.³ However, these particular objections seem to have stemmed from a general opposition to the government's attempts to interfere in the matter; the Commons appear to have seen in the proposed legislation and in the government orders of 1607-8, as well as in the later patents and proclamations, a threat to parliament's regulation of these houses and to the justices' rule in the countryside. The grant of patents provided an occasion on which the members of the Commons could express their objections to the government's intervention in a more direct form.

Much of the opposition in the Lower House in 1621 both to the patent for the forfeiture of alehouse recognizances and to that for the licensing of inns was directed against the effects of these patents on the authority of the justices.⁴ The Committee of Grievances which investigated the patent for alehouse recognizances claimed that the justices' supervision of alehouses under 5 & 6 Ed. VI c. 25 had been for the common good, but that the patentees exercised their powers for private profit. They considered it a grievance that alehouse recognizances were forwarded to the king's bench rather than to quarter sessions, and thus 'taken out of the power of the Justices'. It was, they claimed, 'the greatest disgrace that could bee that the Justices shalbee agent and assistant to the proiects'. During the

¹Townshend, pp. 304-6; *C.J.*, i. 167, 943; also see *Brit. Mus.*, Cott. MS. Titus B. iii fo. 6, a letter from the privy council in 1608 in response to complaints of the justices of the counties near London concerning the inconveniences of licensing in sessions; the council revised its orders so that the licensing could take place at meetings of the justices in their divisions.

²Townshend, pp. 278-9, 305-6; Foster, ii. 269-70.

³Townshend, pp. 181, 278, 286, 304-5.

⁴The following discussion is based on the debates in the House and in committee under the dates 19-22 Feb. in *C.D.* 1621, vols. ii-vi and Nicholas, vol. i.

investigation of the patent for the licensing of inns, several members contended that the grant had interfered with the justices' government of the countryside; Robert Phelps, member for Bath, asserted that 'it maketh a Justice of Peace to be buffeted by a base alehouse keeper' and Edward Giles, member for Totnes, protested that there would be 'no government in the country if the ministers of justice should be thus condemned'. The experience of the supervision of inns by patentees was apparently sufficient to remove the earlier objections to bringing these houses under the control of the justices. A bill read later in the session and revived and passed by the Commons in 1624, entitled 'for inhibiting of inns it being a free trade', proposed to empower the justices to license such houses and to suppress those that were disordered. Neither this bill nor another concerning inns which was also passed by the Commons became law, and there were further attempts to legislate on the subject in 1626.¹

The Commons also argued that the government, in its orders and patents concerning inns and alehouses, had overstepped its authority. The Lower House considered the Crown's attempt to make alehouses a source of royal revenue an infringement of the rights of parliament; and when in 1610 the Commons complained that the charges imposed in 1608 were illegal because they had not received the consent of parliament, the Crown withdrew the tax.² In 1621 the Commons protested against the use of proclamations to establish new regulations governing inns and alehouses and to compel obedience to the patentees.³ 'No proclamation ought to go out for any private cause', they argued, terming such an act an abuse of the prerogative. The House ordered the Committee on Grievances to draft a petition to the king 'for moderating of proclamations' on the ground that they 'were not laws absolute but temporary and that penalties by proclamation were boundless and not to be used but when necessity of state requires'.

Both in the case of apparel and in that of the regulation of inns and alehouses, the Commons may have disagreed with particular provisions sought by the government. However, beneath any such differences that may have existed, there appears to have been a more general reason for conflict; the members of the Commons were attempting to assert their control over social policy and they opposed any government attempts, whether by legislation, proclamation or patent, to interfere in matters which they regarded as the proper concerns of parliament.⁴

Much of the opposition in the Commons to the regulation of social conduct took the form of objections to specific provisions in the bills, but a

¹ See the debates for 24 Apr., 16, 28 May in *C.D. 1621*, vols. ii-vi; Nicholas, vol. i; *C.J.*, vol. i; also *C.J.*, i. 677, 690, 696, 726, 751, 775, 782, 832.

² Foster, ii. 269-70; i. 133.

³ The following is based on the debates on 21 and 22 Feb. in *C.D. 1621*, vols. ii-vi and Nicholas, vol. i.

⁴ For a discussion of the diverging attitudes of the government and the house of commons on other social questions such as the relief of poverty and unemployment, see Kent, pp. 474-6.

few members opposed *any* penal laws against certain habits. They seem to have objected in principle to some of the legislation because they regarded it as an excessive and unnecessary interference with the freedom of the individual. They argued that certain of the bills would serve no purpose except to make life more difficult for the meaner sort, the only people, they contended, to whom the provisions would be applied. Edward Glascock attacked a bill of 1601 against drunkenness by claiming that it was 'a meer cob-web to catch poor flies in'.¹ Richard Spencer, member for Brackley, appears to have adopted an argument similar to Glascock's in opposing a bill of 1606 against the profaning of the Sabbath. The report of his speech, though fragmentary, would suggest that he accused the members of the Commons of designing such laws for, and the justices of applying them to, only the meaner sort; Spencer apparently opposed the statutory regulation of conduct, even if it was restricted to the lower orders.²

One of the most outspoken opponents of social regulation was John Bond who also seems to have regarded parliament's attempts to regulate certain areas of conduct as constituting merely an additional hardship for the poorer sort. In opposing the bills of 1601 for the punishment of absence from church, Bond argued that:

The poor commonalty (whose strength and quietness is the strength and quietness of us all) he only shall be punished, he vexed. For will any think that a Justice of Peace will contest with so good a man as himself? No, this age is too wise. I leave it to this house whether it stands with policy when four subsidies and eight fifteens be now granted to bring the poorer sort into a greater fear by these and such like laws.³

In a later speech on the bill Bond made clear his general opposition to what he regarded as excessive statutory interference with the habits of the individual.

. . . the bill is altogether needless, and divers reasons move me to think it both inconvenient and unnecessary. Every evil in a state is not to be met with in a law. And as it is in the natural, so it is in the politique body, that sometimes the remedy is worse than the disease. And therefore particular laws against particular offences produce novelty, and in novelty, contempt.⁴

Only a few independent-minded members seem to have expressed outright opposition to attempts by the state to regulate the conduct of the individual. Perhaps others shared, if for different reasons, Bond's view that such legislation was both inconvenient and unnecessary; their criticisms of particular provisions in the bills may have been directed toward defeating measures to which they were opposed in principle. This may have been true, for example, in the case of the bills of 1601 concerning attendance at church; as each objection in turn was answered, members seem to have searched for new reasons to oppose the bills. It appears, however, that in

¹Townshend, p. 197.

²*C.J.*, i. 269.

³Townshend, p. 275.

⁴*Ibid.*, pp. 317-18.

many instances a majority in the Commons accepted parliamentary regulation of men's 'manners and morals' as both necessary and desirable, as long as their own conduct was unlikely to be affected. The evidence does not allow one to say more.

The number of bills on such subjects as drunkenness, apparel, bastardy, swearing and the keeping of the Sabbath which came before the house of commons attests to the concern of some members to regulate individual conduct whether in the interests of morality or of the social, economic and political welfare of the state. For a number of members these factors were probably inseparable; if Puritans like Francis Hastings and Nicholas Fuller were inspired primarily by a religious zeal for moral reform, they, and the bills which they introduced, also pointed to the social, economic and political benefits that would accompany such reform. It appears, however, that radical Protestant members of the Commons were often instrumental in trying to secure penal legislation against conduct which many other members regarded as purely moral in its implications and not a proper concern of the secular arm of government. There seems to have been widespread support for regulation only when the 'vices' posed threats to the peaceful government and good ordering of the realm. However, legislation even on these matters was hampered by the fear that the justices would not limit their activities to the punishment of the 'meaner sort', and in some cases by conflicts between the house of commons and the government, as the Lower House sought to shift economic and social policy from Whitehall to Westminster and resisted the interference of the Crown and the privy council in the regulation of social conduct. The debates on the regulation of social conduct and the amendments to the bills seem to reveal a society in which gentlemen felt a threat to their social and political positions. This was a threat which appeared to be enhanced by the social attitudes of men who were more concerned about trade balances than social distinctions, by provisions giving one or two justices out of sessions, who were perhaps men of mean origins, considerable discretion in the punishment of social offences, by proposals to entrust the execution of penal statutes to minor officials, by attempts to make heads of households responsible for the conduct of their families and servants, and by the Crown's use of prerogative and proclamation which seemed to endanger parliament's authority and the rule of gentlemen in the countryside. If any one concern dominated the attitudes of the members of the Elizabethan and early Stuart house of commons to the regulation of social conduct, it was the fear that they would be deprived of the authority and privileges commensurate with their social position and that their own conduct might thus be subject to regulation.

JOAN KENT

APPENDIX I

*Bills on Apparel 1576-1628***1576**

'Against excess in apparel'. Brought from the Lords. Two readings, conference between the two Houses and a new bill drawn up by the Commons and passed. Dropped in the Lords. (D'Ewes, pp. 248, 251, 258, 261, 262; *C.J.*, i. 106, 109, 113, 114, 115; Brit. Mus., Sloane MS. 326 fos. 15-18v.)

1589

'Against excess of apparel'. Brought from the Lords. Two readings, committed, reported from committee with amendments; the amendments to be further considered and compared with apparel laws already in force. (D'Ewes, pp. 450, 452, 454.)

1597-8

'Against the excess of apparel'. Two readings, committed, reported from committee with amendments, along with a new bill against the wearing of ruffs. The bill was passed, the Lords requested a conference on it; it was reported from conference that the Lords did not like the bill and would not proceed with it. (D'Ewes, pp. 583, 588, 591, 592, 594.)

1604

'Concerning apparel'. One reading and rejected on a division of the House. (*C.J.*, i. 152; Brit. Mus., Cott. MS. Titus F. iv fo. 5r-v.)

'Touching apparel, restraining the excessive wearing of cloth of gold, silver, etc.'. Passed. Rejected by the Lords. (*C.J.*, i. 166, 167, 176, 180, 942, 953; a draft of the bill in House of Lords MSS., Main Papers, 26 Apr. 1604.)

'For apparel, restraining the excessive wearing of cloth of gold'. Brought from the Lords. Debated at third reading, question postponed, passed after further debate. Failed to gain royal assent. (*C.J.*, i. 215, 224, 231, 245; a draft of the bill in House of Lords MSS., Main Papers, 14 May 1604.)

The act for continuation and repeal of statutes repealed all previous laws on apparel. (1 Jac. I c. 25.)

1610

'Of apparel'. Two readings and committed. (*C.J.*, i. 442.)

1614

'Against apparel'. Two readings and committed. (*C.J.*, i. 463-4, 472; *C.D.* 1621, vii. 629, 633.)

'Against the vain and wasteful consumption of gold and silver in gilding and silvering within this kingdom'. Brought from the Lords. Passed. Parliament dissolved before it received royal assent. (*C.J.*, i. 466, 472, 493; *C.D.* 1621, vii. 630, 633, 645.)

1621

'Concerning apparel and the waste of gold and silver used therein'. First reading and debated, second reading and committed. (Debates under the dates 16, 21 Feb., 21 Apr. in *C.D. 1621*, vols. ii-vi; Nicholas, vol. i; *C.J.*, vol. i.)

'For the better venting of the cloth of the kingdom'. Two readings and committed. (Debates under the dates 19 and 21 Apr. in *C.D. 1621*, vols. ii-vi; Nicholas, vol. i; *C.J.*, vol. i.)

1626

'Concerning apparel'. Two readings, committed, reported with amendments, petition of the Drawers of gold and silver thread was read, petitioners to be heard in the House, bill recommitted; counsel for the wire-drawers and silk-men was heard; bill reported from committee with amendments and a proviso added. (*C.J.*, i. 845, 850, 853, 855-6, 864.)

1628

'Concerning apparel'. Brought from the Lords. One reading. (*C.J.*, i. 906, 908.)

APPENDIX II

Bills on Drunkenness, Alehouses, Inns, Victualling Houses, Taverns, Vintners and Brewers 1576-1628

1576

'Against making of double double ale and double double beer'. One reading. (D'Ewes, p. 248.)

'Against innholders and tipplers'. Two readings, committed; a proviso added on a division of the House; the bill with proviso rejected on a division of the House. (D'Ewes, pp. 248, 253, 255.)

1581

'Against the multitude of common inns and alehouses'. One reading and rejected. (D'Ewes, p. 290.)

1584

'Against excessive and common drunkenness'. One reading. (SP 12/282 no. 43; the endorsements on the outside of this draft of a bill read in 1601 include one reading on 17 Feb. 1584.)

1589

'To reform disorders of common inns and other victualling houses'. Two readings, committed, reported that only that part of the bill dealing with 'gaging of vessels for beer and ale' was to be proceeded with and a new bill brought in for that purpose. (Brit. Mus., Lansd. MS. 55 fo. 184r-v; Townshend, p. 17; D'Ewes, pp. 432, 435, 437, 440.)

'Gaging of casks and vessels'. Two readings, committed; brewers to be heard by the committee, bill reported from committee and ordered to be engrossed. (D'Ewes, pp. 440, 442, 443, 451.)

1593

'Concerning brewers and the brewing of beer and ale'. Passed. One reading in the Lords. (D'Ewes, p. 520; a draft of the bill in House of Lords MSS., Main Papers, 9 Apr. 1593.)

1601

'Against excessive and common drunkenness'. Two readings, committed, reported from committee that a new bill had been drafted. (Townshend, pp. 179, 188, 193; D'Ewes, pp. 622, 626, 628; a draft of the bill in SP 12/282 no. 43.)

'Against drunkards and common haunters of alehouses and taverns'. Two readings and committed. (Townshend, pp. 193, 196-7; D'Ewes, pp. 628, 629.)

'Against drunkards and common haunters of alehouses and taverns'. (This appears to be a new bill with the same title as that listed immediately above. Townshend's comments on the above bill do not correspond with the provisions in this draft, so there appear to have been two bills.) Reported from committee with amendments and passed. (D'Ewes, p. 657; Townshend, p. 278; a draft of the bill in SP 12/283 no. 4.)

'To reform the excess and disorders used in inns and other victualling houses'. Two readings and refused commitment. (Townshend, pp. 180, 181, 185; D'Ewes, p. 623; a draft of the bill in SP 12/282 no. 41.)

'For reformation of abuses in alehouses and tippling houses'. Two readings, committed, amended, debated at the third reading and rejected. (Townshend, pp. 189, 246, 278-9; D'Ewes, pp. 626, 651, 665; a draft of the bill in SP 12/282 nos. 61-2.)

'For the suppressing of alehouses and tippling houses'. Brought from the Lords. First reading and debated; second reading, debated and rejected. (Townshend, pp. 285-6, 304-6; D'Ewes, pp. 668, 676.)

1604

'To explain the intent and purpose of another act of Parliament made in the fifth year of King Edward the sixth concerning alehouses'. One reading. (C.J., i. 159, 160, 939, 940.)

'Touching wines, inns, alehouses and taverns'. Two readings, 'much disputed' and rejected. (C.J., i. 167, 940, 943.)

'For repressing of alehouses against the law'. Two readings, committed, reported from committee and rejected. (C.J., i. 160, 222, 234, 940, 977, 988.)

'For avoiding the superfluous number of alehouses and the great disorders of inns and other victualling houses'. Two readings and committed. (C.J., i. 176, 180, 948, 953.)

'Concerning alehouses, taverns, inns and common brewers'. Two readings and committed. (C.J., i. 176, 180, 948, 953.)

Two bills concerning alehouses given a first reading. (C.J., i. 182, 955.)

'For reformation of abuses in alehouses late converted into inns'. Two readings and committed. (C.J., i. 194, 196, 962.)

'Against converting victualling houses into inns'. This may be the second reading of one of the unnamed bills given a first reading on 23 Apr. (*C.J.*, i. 199.)

'For reformation of abuses in inns, taverns, alehouses, tippling-houses, and the haunters and frequenters of them'. Two readings and committed. (*C.J.*, i. 207, 222, 970, 977.)

'Against haunting of alehouses'. One reading. (*C.J.*, i. 207, 970.)

'To restrain the inordinate haunting and tippling in inns, alehouses and other victualling houses'. Two readings, committed, amended; third reading, debated, a proviso added, passed. Proviso added by the Lords, read three times and passed. Became law as 1 Jac. I c. 9. (*C.J.*, i. 213, 222, 225, 233, 251, 974, 977, 980, 986, 1001.)

'For taverns and tippling houses'. (A draft of the bill in Salisbury MSS. 142/189, M485/35; this may be a draft of one of the bills listed above.)

1606

'For the better executing of one act of Parliament made in the first session of this Parliament, intituled an act to restrain the inordinate haunting and tippling in inns, alehouses and other victualling houses'. Two readings and committed. (*C.J.*, i. 264, 266.)

'Against the loathsome sin of drunkenness'. Two readings, committed, reported with amendments, third reading and passed. (*C.J.*, i. 279, 286, 294, 299.)

'For the reformation of great abuses suffered by his Majestys subjects by brewers of beer and ale, by victuallers that utter the same'. One reading and rejected. (*C.J.*, i. 285.)

'For prohibiting all such from brewing of beer and ale as sell the same again by retail and that all common brewers keep the lawful assize of beer and ale'. Brought from the Lords; two readings and rejected. (*C.J.*, i. 301, 304; *Parliamentary Diary of Bowyer*, pp. 143-4.)

'For the better suppressing of tippling-houses to restrain brewers to utter their strong beer and ale to alehouse-keepers and tipplers not licensed'. Three readings and rejected. (*C.J.*, i. 272, 292, 305; *Parliamentary Diary of Bowyer*, p. 149.)

1606-7

'For repressing the odious and loathsome sin of drunkenness'. Two readings, committed, reported with amendments, debated at third reading, two provisos added and passed. Became law as 4 Jac. I c. 5. (*C.J.*, i. 327, 328, 338, 346.)

'For avoiding of idleness and for reforming of misdemeanours in victualling houses'. One reading. (*C.J.*, i. 345, 1023.)

'To restrain the utterance of beer and ale to alehouse keepers and tipplers not licensed'. Three readings and passed. Became law as 4 Jac. I c. 4. (*C.J.*, i. 327, 349.)

1610

'Brewing in victualling houses'. One reading and the bill rejected on a division of the House. (*C.J.*, i. 413.)

'For the reformation of alehouse keepers'. Became law as 7 Jac. I c. 10. (*C.J.*, i. 417, 435, 441.)

1614

'For repressing the odious and loathsome sin of drunkenness and for preventing the inordinate consuming of corn'. Two readings and committed. Revived in 1621; see below. (*C.J.*, i. 481, 503; *C.D. 1621*, vii. 637.)

'For the better execution of two other statutes made against alehouse keepers sithence the beginning of his Majestys most happy reign'. Two readings and committed. (*C.J.*, i. 492, 503.)

'To restrain common brewers or tipplers to be Justices of the Peace in any county, city or town corporate within this realm'. Two readings and committed. Revived in 1621; see below. (*C.J.*, i. 495, 503.)

1621

'To restrain common brewers to be Justices of the Peace'. One reading. (Debates under the date 7 Feb. in *C.D. 1621*, vols. ii-vi; Nicholas, vol. i; *C.J.*, vol. i; a draft of the bill in *C.D. 1621*, vii. 18.)

'For repressing the odious and loathsome sin of drunkenness and for repressing the consumption of corn'. Two readings and rejected. (Debates under the dates 14, 28 Feb. in *C.D. 1621*, vols. ii-vi; Nicholas, vol. i; *C.J.*, vol. i; a draft of the bill in *C.D. 1621*, vii. 33-4.)

'For better repressing of drunkenness and restraining the inordinate haunting of inns, alehouses and other victualling houses'. Two readings, debated, committed, reported with amendments, third reading and passed. Revived in 1624; see below. (Debates under the dates 21, 22 Feb., 1, 22 March, 24 Apr. in *C.D. 1621*, vols. ii-vi; Nicholas, vols. i-ii; *C.J.*, vol. i; a draft of the bill in *C.D. 1621*, vii. 51-2.)

'For inhibiting of inns, it being a free trade'. Committee appointed to draw a bill for regulating inns and alehouses. Bill brought in, given two readings and committed. Revived in 1624; see below. (Debates under the dates 24 Apr., 16, 24, 28 May in *C.D. 1621*, vols. ii-vi; Nicholas, vols. i-ii; *C.J.*, vol. i.)

'Concerning hostlers and innholders'. Two readings and committed. Revived in 1624; see below. (Debates under the dates 24, 28 May, 24 Nov. in *C.D. 1621*, vols. ii-vi; Nicholas, vols. i-ii; *C.J.*, vol. i.)

1624

'For repressing of drunkenness and restraining the inordinate haunting of inns and alehouses'. Two readings, committed, reported without any amendments, third reading and passed. Became law as 21 Jac. I c. 7. (*C.J.*, i. 673, 674, 679, 687, 718, 719, 730, 738; a draft of the bill in House of Lords MSS., Main Papers, 20 March 1624.)

'Concerning the new-erecting and ordering of inns'. Two readings, committed, reported with amendments, third reading and passed. Revived in 1626; see below. (*C.J.*, i. 677, 690, 696, 726, 751, 775, 782.)

'Concerning hostlers and innholders'. Passed. (*C.J.*, i. 677, 690, 696, 726, 751, 775, 782.)

1625

'For further restraint of tippling in inns, alehouses and other victualling houses'. Became law as 1 Car. I c. 4. (*C.J.*, i. 805.)

1626

'Concerning the new-erecting and ordering of inns'. One reading. (*C.J.*, i. 832.)

'Brewhouses'. Two readings and after a long debate, rejected. (*C.J.*, i. 837.)

'For the better suppressing of unlicensed alehouse keepers'. Two readings, committed, reported with amendments, and ordered to be engrossed. (*C.J.*, i. 841, 855.)

1628

'For better suppressing of unlicensed alehouse keepers'. Became law as 3 Car. I c. 4. (*C.J.*, i. 880, 884, 908, 915.)

APPENDIX III

Bills against Bastardy 1576-1627

1576

'Against bastardy'. Two readings and committed. (D'Ewes, pp. 244, 248.)

An act for setting the poor to work and avoiding idleness contained clauses for the punishment of bastardy. (18 Eliz. I c. 3.)

1593

A proviso on bastardy to be added to the act for continuation and repeal of statutes was defeated. (Brit. Mus., Cott. MS. Titus F. ii fos. 79r-v, 80v-81v; D'Ewes, p. 513.)

1597

'Against bastardy'. Two readings and committed. (D'Ewes, p. 559.)

1606

'To discharge parishes of bastard children'. Two readings and committed, reported 'with a desire it may lie still'. (*C.J.*, i. 272, 286, 293.)

1606-7

'For explanation of so much of a statute made 18 Eliz., c. 3...as concerneth the punishment of reputed fathers and mothers of bastards'. Two readings and committed. (*C.J.*, i. 328.)

'For the punishment of the parents of bastard children and the discharge of the parishes where they be born, and to prevent the unnatural murders of such children committed by the mothers'. Two readings and committed. (*C.J.*, i. 368, 370.)

1610

'Against the killing of base children'. Two readings and committed. (*C.J.*, i. 421, 429.)

'Punishment of parents of bastards etc'. Two readings and committed. (*C.J.*, i. 427, 429.)

Act concerning vagabonds and houses of correction contained a provision that any lewd woman having a bastard chargeable to the parish could be sent to a house of correction for a year and if she offended again she was to be sent to such an institution until she produced securities for her good behaviour. (7 Jac. I c. 4.)

1624

'To prevent the destroying and murdering of base children'. Became law as 21 Jac. I c. 27.

1627

Act for continuation and repeal of statutes included a provision that all justices might carry out the provisions against bastardy of the act of 1576, where the earlier act had required that one of the two justices be of the quorum. (3 Car. I c. 5.)

APPENDIX IV

Bills against the Profaning of the Sabbath and Absence from Church
1584-1628

1584-5

'For the better and more reverent observing of the Sabbath day'. Two readings and committed. New bill brought from the committee. (D'Ewes, p. 333.)

'For the better and more reverent observing of the Sabbath day'. Two readings and ordered to be engrossed, third reading and passed. Lords requested conference on the bill; bill brought from the Lords with amendments and passed. Vetoed by the Crown. (D'Ewes, pp. 335, 336, 337, 343, 363, 369.)

1601

'For better keeping of the Sabbath day'. Three readings, debated and re-committed. (Townshend, pp. 185, 189, 194; D'Ewes, pp. 624, 626, 628.)

'Prohibiting any fair or market to be held on Sunday'. Passed by the Commons. (Townshend, pp. 227, 285, 288, 313; D'Ewes, pp. 643, 668, 669; a draft of the bill in SP 12/283 no. 12.)

'Against wilful absence from divine service upon the Sunday'. Two readings, much disputed, committed, reported with amendments, House divided and the bill rejected. (Townshend, pp. 210, 224, 227-9; D'Ewes, pp. 642, 643.)

'For the more diligent coming to church on Sunday'. Two readings, debated, committed, reported with amendments and debated, third reading and debated, proviso added on a division of the House, renewal of debate, bill rejected on a division of the House. (Townshend, pp. 254, 273-8, 287, 317-21; D'Ewes, pp. 655, 663-4, 668, 682-3; a draft of the bill in SP 12/283 no. 16.)

1606

'For the better observance of the Sabbath'. Two readings, twice committed, third reading and debated, passed. (*C.J.*, i. 260, 261, 267, 268-9; *Parliamentary Diary of Bowyer*, pp. 8, 34-5; a draft of the bill in House of Lords MSS., Main Papers, 17 Feb. 1606.)

'To restrain arrests on the Sabbath'. First reading and 'to be amended presently', second reading and committed, reported, 'many disputes', to be engrossed. (*C.J.*, i. 301, 304, 306.)

1607

'To restrain the fruiterers of London from going abroad to sell their fruit upon the Sabbath days'. Two readings and rejected. (*C.J.*, i. 356, 371, 1034, 1042.)

1614

'For the better observing and keeping holy the Saboath-day or Sunday'. Two readings, debated; committed, reported, third reading and passed. Conference requested by the Lords. (*C.J.*, i. 467, 468, 476, 483, 492; *C.D. 1621*, vii. 643-4, 650.)

1621

'For keeping holy the Saboth-daye'. Two readings, debated, committed, reported with amendments, third reading and passed. Conference requested by the Lords, report from conference, the bill returned with amendments and passed. (Debates under the dates 7, 9, 15, 19 Feb., 1, 5 March and 24, 28, 29 May in *C.D. 1621*, vols. ii-vi, Nicholas, vols. i-ii; *C.J.*, vol. i.)

'For catechising and instructing of children every Sunday after dinner and that every one come under the age of 21 years, otherwise to forfeit 5s'. Two readings and committed. (*C.D. 1621*, ii. 371.)

1624

'For punishment of abuses committed on the Lords Day called Sunday'. Passed and sent to the Lords. (*C.J.*, i. 671, 673, 678, 730; a draft of the last page of the bill in House of Lords MSS., Main Papers, 6 March 1624.)

1625

'For punishing of divers abuses committed on the Lords Day called Sunday'. Became law as 1 Car. I c. 1. (*C.J.*, i. 799, 800.)

1626

'Concerning the keeping of the Lords Day commonly called Sunday'. Two readings, committed, reported, recommitted and again reported, third reading and passed. Became law as 3 Car. I c. 2. (*C.J.*, i. 825, 827, 840, 842, 846.)

1628

'For the further reformation of sundry abuses committed on the Lords Day, commonly called Sunday'. Two readings, committed, reported with amendments, third reading, an addition to make the bill a probationer, and passed. Returned from Lords. (*C.J.*, i. 877, 880, 894, 903.)

APPENDIX V

Bills against Swearing 1601-24

Undated

'Againste commen blasphemers of goddes name'. (A draft of the bill in Brit. Mus., Lansd. MS. 105 fo. 200r-v.)

1601

'Against blasphemous swearing'. Two readings and committed. A new bill brought from the committee. (Townshend, pp. 191, 206; D'Ewes, pp. 626, 633, 642; a draft of the bill in SP 12/282 no. 56.)

'Against usual and common swearing'. Two readings, committed, reported with amendments, debated; third reading and passed. (Townshend, pp. 225, 261, 267-8, 324; D'Ewes, pp. 642, 651, 658, 660-1; a draft of the bill in SP 12/283 no. 24.)

1604

'For reformation of the common sin of swearing and blasphemy'. Two readings, committed, reported with amendments, debated at the third reading and passed on a division of the House. (*C.J.*, i. 247, 250, 251, 998, 1000.)

1606

'To restraine abuses of players'. (Against swearing by players.) Became law as 3 Jac. I c. 21.

1610

'To prevent common swearing by the name of God'. Two readings, committed, reported, debated at its third reading and passed. (*C.J.*, i. 426, 434, 435, 441, 442; a draft of the bill in House of Lords MSS., Main Papers, 21 June 1610.)

1614

'Against swearinge'. One reading. (*C.J.*, i. 463; *C.D.* 1621, vii. 629.)

1621

'To prevent and reform profane swearing and cursing'. Two readings, debated, committed, reported with amendments, third reading and passed. Sent from the Lords with a proviso. (Debates under the dates 5, 10, 17 March, 24 Apr., 16 May in *C.D.* 1621, vols. ii-vi; Nicholas, vols. i-ii; *C.J.*, vol. i.)

1624

'To prevent and reform profane swearing and cursing'. Two readings, ordered to be engrossed, third reading and passed. Became law as 21 Jac. I c. 20. (*C.J.*, i. 672, 673, 678, 716, 730; a draft of the bill in House of Lords MSS., Main Papers, 6 March 1624.)

‘The Patriotic Linen-Draper’: Robert Waithman and the Revival of Radicalism in the City of London, 1795–1818¹

IT IS NOT strictly accurate to call Robert Waithman a radical. The term came into use after the Napoleonic wars to describe a group that was more extreme than Waithman and with which he was to some extent in conflict. He was, however, though never an advocate of universal suffrage, a consistent champion of peace, retrenchment and reform. Moreover, the term radical has been used so generally by historians to describe the Wilkite ‘Patriots’ of the seventeen-seventies that it seems legitimate to apply it to Waithman, whose political standpoint was similar to theirs and who frequently invoked their principles and example.

The earlier phase of City radicalism had ended in the mid seventeen-eighties, after which the Corporation, attached to the younger Pitt, had become with him progressively more conservative. The period covered by this essay begins in the mid seventeen-nineties when the Corporation was firmly opposed to Jacobinism at home and abroad, and it ends in 1818 when for the first time for a generation the City returned three reformers among its four M.P.s. During this period the City of London did not play quite such a dominant part in radical politics as it had in the seventeen-seventies: it was Westminster, at least from about 1807, that tended to set the pace.² Yet the revival of City radicalism was a significant feature of the new reform movement of the early nineteenth century.³ It will be examined in this article with particular reference to Waithman’s role, between 1795 when he first spoke in the Common Hall and 1818 when he was elected to parliament. Besides his efforts, of course, there were more general factors at work, which will be mentioned in the course of the essay; and there were other

¹ I am grateful to Mr. William Kellaway for his valuable comments on a draft of this article, and to Mr. Roland Thorne, Mr. Michael Collinge and Dr. Ivon Asquith for several useful references.

² J. M. Main, ‘Radical Westminster, 1807–20’, *Historical Studies* (Australia and New Zealand), xiii (1966).

³ The fullest treatment of this revival so far published is R. R. Sharpe, *London and the Kingdom* (3 vols., 1894–5), iii, chs. xli–xliii, which provides a useful survey of those parts of the Journals of the Common Council and the Common Hall Books that relate to national politics—though it makes little use of other sources such as newspapers (in which the debates of the two courts were often very fully reported). On the subject discussed in this essay the new *History of London* edited by Francis Sheppard—the relevant volumes being G. Rudé, *Hanoverian London 1714–1808* (1971) and F. Sheppard, *London 1808–1870: the Infernal Wen* (1971)—draws heavily on Sharpe and adds little to his account.

individuals who made important contributions, especially the Foxite brewer H. C. Combe (M.P. for London 1796-1817) and Waithman's contemporary Matthew Wood. The latter, indeed, became in some ways a more conspicuous figure than Waithman. He had the advantage of a higher status in the commercial world, being a merchant (a wholesale druggist) while Waithman was a retailer or 'tradesman'; and although elected to the Common Council only in 1802, Wood attained aldermanic rank five years later through a convenient vacancy occurring in his ward.¹ Thereafter he was sheriff in 1809-10, lord mayor for two successive terms in 1815-17, and a member of parliament for the City from 1817 to 1843. He was not by any means, however, a distinguished speaker,² and was much less prominent than Waithman in the debates of the Common Council and Common Hall. Nor does he seem to have had Waithman's energy and skill as a political manager. He favoured many causes with his sponsorship and was widely regarded as respectable and well-meaning, but he often seems to have been more of a figurehead than a leader: Francis Place called him 'weak headed' and implied that he was easily imposed upon by men of doubtful character.³ At least as regards the period covered by this article, Waithman is the person who deserves most credit for the shift to the left in City politics;⁴ and an added reason for concentrating attention on him is the fact that he had a well-defined political position which is interesting not only in the context of the City but in that of the reform movement at large.

Robert Waithman was born at Wrexham, Denbighshire, in 1764 and came to London as a young man. After working as a shop assistant he started his own drapery business in about 1786, and this (first in Ludgate Circus and then in a corner house on Fleet Street) became a prosperous concern.⁵ He seems to have had his first taste of politics in debates at the Founders' Hall, Lothbury, which was a centre for meetings of the more radical citizens in the early seventeen-nineties.⁶ At this time the livery as a body

¹A vacancy did occur in Waithman's ward, Farringdon Without, on Wilkes's death at the end of 1797, but Waithman was not then in a position to aspire to the bench. A radical candidate, S. F. Waddington, stood for election but was defeated by Charles (later Sir Charles) Price, who lived until 1818—when Waithman succeeded him. See A. B. Beaven, *Aldermen of the City of London* (2 vols., 1908-13), i. 164.

²See his obituary in the *Illustrated London News*, 30 Sept. 1843: 'as a public speaker he had very many superiors, his style being as little elevated as can be imagined; he had none of the powers of an orator either to rouse the feelings or rivet the attention of an assembly'.

³British Museum, Additional MS. 35144 fo. 38.

⁴The importance of his role has not been recognized by historians of London. In the new *History of London* he is mentioned only once, and then inaccurately (Sheppard, p. 305); and Sharpe (iii, chs. xli-xliii) makes no mention of him before his election to parliament.

⁵For basic biographical information see *Gentleman's Magazine*, 1833, ciii (1), p. 179; *D.N.B.*; J. T. Rhys, 'Alderman Robert Waithman, M.P.', *Handbook of the Denbighshire Society in London*, 1937-8; *Dictionary of Welsh Biography*.

⁶*Gentleman's Magazine*, 1833, ciii (1), p. 179.

was politically quiescent—the records of the Common Hall contain no resolutions relating to national politics during the years 1790–4. It came to life, however, in 1795, petitioning the house of commons in January for peace, and in November instructing the City's representatives in parliament to oppose the Treason and Sedition Bills.¹ A special grievance which provided some of the initial impetus for this revival was the London Militia Act which had been passed at the end of the 1794 session. Whereas the City had previously been responsible for its own militia, the force raised under this act was to be subject to the national authorities and liable for service beyond the City limits—and the measure provoked considerable resentment among the citizens.² Also the abnormally high bread prices of 1795 must have helped to create discontent with the war and the ministry. A meeting of Cheap ward in July, while resolving to raise money for the relief of the poor, also called for a City address to the king imploring him to put an end to 'the present ruinous, calamitous, and disastrous war'. And Waithman, at a meeting of merchants, traders and bankers in the same month, protested against the assumption that the distress was due to factors beyond human control.³ Waithman was clearly one of the moving spirits in the renewal of radical activity in the City. The peace motion in the Common Hall in January 1795 was seconded by him in 'an excellent speech', and his name headed the list of liverymen who signed the requisition for the November meeting.⁴ He also figured prominently at a meeting of his ward on 19 November which adopted a petition to the house of commons against the 'Two Bills'; and at the annual elections on St. Thomas's Day he was returned as one of the ward's representatives on the Common Council.⁵

The Common Council at this time was firmly loyalist and Pittite—as it was basically to remain for the next ten years or more. In this body as well as the Common Hall Waithman emerged in the later seventeen-nineties as one of the leading Opposition speakers; but in the Common Council he was almost always heavily outvoted, and on several issues the two courts made contradictory pronouncements, the one approving of government policy and the other denouncing it.⁶ At the beginning of 1800 when H. C. Combe, after a protracted struggle between the livery and the Court of Aldermen,⁷

¹ Corporation of London Records Office, Common Hall Book (C.H.) 9, fos. 49–51, 58–59v. 1795 was also the year—not 1793 as Rudé states (p. 242) misconstruing Beaven (ii, pp. xxvi, 202)—in which H. C. Combe was first 'presented' by the livery to the Court of Aldermen in the election for lord mayor.

² *Morning Post*, 5, 12, 30 Sept., 23 Dec. 1794. C.H. 9, fo. 49v.

³ *Morning Chronicle*, 15 July 1795. Place Collection, set 37, p. 42, British Museum. J. Walvin, 'English democratic societies and popular radicalism, 1791–1800' (unpublished D.Phil. thesis, University of York, 1969), pp. 492–3.

⁴ *Morning Post*, 25 Jan. 1795. C.H. 9, fo. 58v.

⁵ *Morning Chronicle*, 20 Nov., 24 Dec. 1795.

⁶ Corporation of London R.O., Journals of Common Council (C.C.) 76, fos. 25–26v; 77, fos. 34r–v, 42–5. C.H. 9, fos. 58–60, 71v–72v, 74v–76.

⁷ For Waithman's part in this conflict see C.H. 9, fo. 110v; *Morning Chronicle*, 23 Oct. 1799.

had eventually become lord mayor, the parliamentary Opposition had thoughts of mounting a petitioning movement led by the City of London against the continuance of the war. But Combe told Fox that he saw 'no prospect of doing any thing with the Common Council', though the livery would be likely to approve any motion for peace; and Fox reported to Christopher Wyvill that he thought it scarcely worth while to move the latter body as 'without the Common Council [it] would not be considered as a precedent for other Corporations'.¹ The livery did in fact remain active at this time. Being a municipal body which was unaffected by the repressive legislation of the seventeen-nineties, it was one of the few organs through which popular anti-ministerial sentiment could still express itself—and such sentiment was particularly strong during the renewed distress of 1800-1. A Common Hall approved a petition for peace negotiations in February 1800,² and at about the same time a group called the 'Independent Livery'—which included Waithman and Thomas Hardy, former secretary of the London Corresponding Society—began meeting once a month at the Horn Tavern, Doctors' Commons.³ Early in 1801 (the Seditious Meetings Act having expired) this group was making contact with known 'friends of liberty' in other parts of the country in the hope of organizing a national petitioning movement for peace and a change of ministers. These plans were frustrated, however, by the new alarm about seditious activities which was raised by the government in April.⁴

In fact there was nothing seditious, or even very extreme, about Waithman's politics. The grievances of the petty bourgeois class he represented, and the changes he wished to see made, were set out in a pamphlet which he published late in 1800. His main objection was to the war (whose only apparent purpose was the restoration of the Bourbon family to the throne of France) and the taxation and distress that it entailed. In particular he attacked the expedient of enormously increasing the national debt as a means of paying for the war. 'The accumulation of public debt', he wrote, 'has one uniform tendency, *viz. to enrich the few by impoverishing the many*, to drain from the hard earnings of the industrious by oppressive taxes, the money required for the payment of the interest of this false capital to the idle and indolent creditor'. He complained especially of the oppressiveness of the income tax, pointing out that no distinction was made between earned and unearned income, and that although income from trade was liable to great fluctuations there was no provision for offsetting losses in one year against gains in another. He also maintained that the landowner and stock holder were acquiring far more through increased land values and capital

¹ Fox to Wyvill, Saturday [1 Feb. 1800], C. Wyvill, *Political Papers* (6 vols., York, 1794-1806), vi. ii. 55.

² C.H. 9, fos. 116v-119v.

³ Hardy to Lord Stanhope, 29 Jan. 1801 (draft), and to Major John Cartwright, 23 Feb. 1801 (draft), Brit. Mus., Add. MS. 27818 fos. 20, 28.

⁴ See letters cited in previous note, and Hardy to John Foster, 14 Apr. 1801 (draft), *ibid.* fo. 30. *Annual Register* (Otridge), History of Europe, pp. 172-7. Cartwright to Wyvill, 20 Apr., 8 May 1801, Wyvill, vi. ii. 253-4, 258.

gains (the funds, he claimed, had risen in value by thirty per cent when the income tax was imposed) than they were losing through taxation; 'those who have been the loudest', he said, 'in pledging their lives and fortunes for the support of the war, have been the greatest gainers by it'. The remedies he proposed for the distressed condition of the lower orders were the cessation of the war, a reform of corruptions and abuses in every department of the state, the abolition of sinecures, the cultivation of waste lands and the establishment of smallholdings for poor labourers, the abolition or commutation of tithes, the repeal of the income tax, and the transference of the fiscal burden to luxuries such as pleasure horses and livery servants.¹ He did not go so far at this time as to advocate a reform of parliament; and the only action he recommended was the calling of meetings to petition for peace and a change of ministry.²

Nevertheless, the role he had played in the City since 1795 had given him the reputation of an *enragé* and made him a target of anti-Jacobin abuse. An amendment which he moved to the Common Council's loyal address of 2 February 1797 following the breakdown of Lord Malmesbury's negotiation had led *The Times* to comment:

An impartial observer would really conclude from the tenor of the Amendment, that this Mr. Waithman was an orator of one of the Jacobin Clubs in Paris, endeavouring to defend the conduct of the Executive Government of France. He could not have made a more Frenchified Amendment.³

And the same newspaper had reported with satisfaction in December 1798 that a determined effort was being made by the loyalists in Waithman's ward to prevent 'his Citizenship' from being re-elected to the Common Council—though the effort was unsuccessful.⁴ At the general election in 1802 Waithman was nominated as a candidate for the City, but the show of hands went against him and he did not stand a poll. On the two occasions when he tried to speak from the hustings he was greeted with loud hisses and cries of 'Off! Off!' and was unable to obtain a hearing.⁵ In general in the opening years of the nineteenth century (though it is true that the Middlesex elections of 1802 and 1804 occasioned strong demonstrations of popular support for Burdett) the prevailing political climate was emphatically loyalist; and in the City the only subject on which Waithman could rouse opposition to the government was the income tax, against which the livery registered protests in 1802 and 1803.⁶ It was not until 1805 that an oppor-

¹ R. Waithman, *War proved to be the real cause of the present scarcity and enormous high price of every article of consumption, with the only radical remedies* (1800), pp. 22, 35-44, 53, 57-75.

² *Ibid.*, pp. 79-80.

³ *Times*, 4 Feb. 1797.

⁴ *Ibid.*, 11, 22, 24 Dec. 1798.

⁵ Anon., *The Picture of Parliament: an impartial account of the general election of 1802* (1802), pp. 71-5.

⁶ C.H. 9, fos. 144v-147v, 163v-165. *Morning Chronicle*, 19 March 1802, 30 June 1803.

tunity arose for an anti-ministerial movement of broader political significance. In April of that year, after the tenth report of the commissioners of naval inquiry and the decision of the house of commons to impeach Lord Melville, the City gave a lead to the country as a whole—a lead that was widely followed¹—in expressing indignation at the abuses which had been brought to light. At a Common Hall on 18 April Waithman carried a motion to petition the house of commons for further investigation into the management of the public money, and a week later the Common Council approved an address to the king requesting that all necessary measures would be taken for the 'correction and punishment of proved malversation'.² This address suggested a marked weakening of the Common Council's allegiance to Pitt—though for another two or three years the court was to remain more Pittite than Foxite or reformist. After Pitt's death an address to the king welcoming the formation of the Grenville-Fox ministry was carried by 91 votes to 79. But fourteen months later, after George III had made a stand against the Talents ministry and dismissed it over its bill for opening staff appointments in the army to Catholics, the Common Council approved by the large margin of 123 votes to 49 a very different address thanking the king for the protection he had given to the established protestant religion and for 'the firm and constitutional exercise of his Royal Prerogative to preserve the Independence of his Crown'.³ In March 1808 a further address was carried assuring the king of 'the unshaken attachment of this Court to his most sacred Person and Government', and Waithman said during the debate that

it had been of late years so customary for the Common Council to address his Majesty in favour of every Administration, that he thought it would...save a great deal of trouble, both to the Common Council and to his Majesty, if they would declare at once their determination to support the measures of the present Administration, as they had of every former Administration, and as they intended to do of every future Administration.

However, it was notable that a motion proposed by Waithman's colleague Edward Quin for the insertion of a clause lamenting the recent rejection of the Reversions Bill by the house of lords was only narrowly defeated.⁴

The tide was in fact on the point of turning. The fervour of loyalism which had prevailed at the time of the resumption of the war in 1803 had appreciably diminished. The battle of Trafalgar had removed the threat of invasion, and the people had become more resentful of the burdens which the war involved and more critical of the ministerial policies which their own money financed. The Melville affair had raised doubts about the way in which public funds were handled; and the return of Sir Francis

¹H. Jephson, *The Platform* (2 vols., 1892), i. 312-14.

²C.H. 9, fos. 186v-188v. C.C. 82, fos. 252v-254v. *Morning Chronicle*, 19, 26 Apr. 1805.

³C.C. 83, fos. 14v-16v, 381-3.

⁴C.C. 84, fos. 194v-198v. *Times*, 26 March 1808.

Burdett at the Westminster election of 1807, after a campaign directed largely against placeholders,¹ had given evidence of strong dissatisfaction with the political establishment. A similar spirit (of which there had been a foretaste in 1805) began to manifest itself strongly in City politics during 1808. The bill to prevent the granting of offices in reversion was not in itself a measure of great importance, but it was the first reform of a constitutional nature which the house of commons had passed for a long time and its rejection by the Lords was understandably regarded as provocative.² On 31 March, less than a week after the loyal address, Wathman introduced and carried without a division in the Common Council a pair of strong petitions to the two houses of parliament. These stated that for a number of years the people had submitted patiently to unprecedented burdens; that these burdens had been 'augmented by great abuses in the management and expenditure of the public money', and that 'a profusion of sinecure places and pensions' had not only added to the sufferings of the people but created a pernicious and unconstitutional influence. The petitioners said that having hailed the introduction of a bill to prevent reversionary grants as a first step on the way to salutary reforms, they observed its frustration with grief and disappointment. Finally they expressed the hope that the house of commons would persist in its attempts to carry this measure, and would institute inquiries designed to secure a rigid economy in the public expenditure.³ The petitions were composed by Wathman,⁴ and the *Independent Whig* (a radical weekly of fairly recent origin) commented: 'The language in which they are expressed, and the sentiments which they avow, are worthy of the days of Wilkes and Sawbridge'.⁵ In October of the same year the Common Council was quick off the mark in denouncing the Convention of Cintra: an address to the king moved by Wathman, expressing grief and astonishment and praying for an inquiry into 'this dishonourable and unprecedented transaction', was carried unanimously. The *Morning Chronicle* said in an editorial, 'The City of London has done itself great honour by taking the lead in the expression of sentiments which are universally felt through the kingdom'; and several cities and counties followed London's example.⁶

In 1809 and 1810 the leftward trend in City politics continued. The year 1809 was one of revived radical activity in the country as a whole, principally on account of the sensational investigation into the conduct of the duke of York. After the defeat of Colonel Wardle's motion asserting the duke's guilt, the livery was one of the first bodies to protest against the Commons'

¹ See [F. Place and J. Richter,] *An exposition of the circumstances which gave rise to the election of Sir Francis Burdett, Bart. for the City of Westminster* (1807), pp. 11-12, 18-19.

² Cf. M. Roberts, *The Whig Party 1807-12* (1939), pp. 192-3.

³ C.C. 84, fos. 216v-220v.

⁴ *Morning Chronicle*, 4 Apr. 1808.

⁵ *Independent Whig*, 3 Apr. 1808, p. 523.

⁶ C.C. 84, fos. 332-4. *Morning Chronicle*, 5 Oct. 1808. M. Dorothy George, *Catalogue of Political and Personal Satires*, viii (1947), pp. 686-7.

decision: a Common Hall on 1 April voted thanks to Wardle, Burdett, Lord Folkestone and others who had taken a prominent part against the duke. Waithman (as usual on such occasions) initiated the debate,¹ and he was warmly praised by Cobbett in the *Political Register* for his persistent and eventually successful efforts to 'unglue the eyes of the Citizens of London'.² The Common Hall was followed up by a meeting of the Common Council, which on 6 April voted Wardle the freedom of the City in a gold box. It also ascribed the recent decision of the house of commons to the 'preponderating influence' of which the court had complained twelve months before, and it called for a 'radical and speedy reform'.³ The nature of the reform required was not made explicit, but it is clear that Waithman, while taking a cautious view of what the Common Council could be made to swallow,⁴ was at this time thinking definitely in terms of parliamentary as well as economical reform. Indeed in the previous August he had supported an attempt by Major Cartwright to raise the question of parliamentary reform at a Middlesex county meeting, and in the spring of 1809 he placed his name on the list of stewards which Cartwright was compiling in preparation for a general meeting of reformers to be held in the metropolis.⁵ On 21 April Waithman presided over a dinner-meeting which he had arranged himself—a dinner of 'independent' liverymen, which was attended by several of the M.P.s who had voted in the minority on Wardle's motion. When Lord Folkestone wrote to Waithman before the dinner saying that he hoped those who attended would not be expected to pledge themselves to parliamentary reform, Waithman said in his reply: 'I am exceedingly sorry any doubt should remain in your mind on a point which I conceive to be the root and source of all our Evils'.⁶ At the dinner Waithman proposed a toast to 'Sir Francis Burdett, and a speedy and radical Reform of the Representation of the People in Parliament';⁷ and ten days later he was one of the speakers at Cartwright's dinner-meeting at the Crown and Anchor, an occasion which marked the return of parliamentary reform to the surface of politics after more than a decade of virtual submersion.⁸ Later in the year the radical

¹ C.H. 9, fos. 229-31. *Morning Chronicle*, 3 Apr. 1809. For an enthusiastic account of the meeting, see Thomas De Quincey to Dorothy Wordsworth, 5 Apr. 1809, J. E. Jordan, *De Quincey to Wordsworth: a biography of a relationship* (Berkeley and Los Angeles, 1962), pp. 139-40.

² *Cobbett's Political Register*, 8 Apr. 1809, cols. 521-2.

³ C.C. 85, fos. 79v-80v.

⁴ Cf. W. A. Miles to William Roscoe, 8 Apr. 1809, Roscoe MSS., no. 2714, Liverpool Public Library.

⁵ *Morning Chronicle*, 31 Aug. 1808. Holt White MSS., no. 442, The Wakes Museum, Selborne, Hants.

⁶ Folkestone to Waithman, 20 Apr. 1809 (draft), and Waithman's reply of the same date, Pleydell-Bouverie MSS., Berkshire R.O.

⁷ *An accurate and faithful report of the speeches, songs, &c. at the dinner given by the livery of London to Colonel Wardle, M.P., at the London Tavern* [1809], p. 10.

⁸ *A full and accurate report of the proceedings at the meeting held at the Crown and Anchor Tavern, on Monday, the 1st of May, 1809, relative to a reform in the Commons House of Parliament* (1809), pp. 36-9.

feeling which had been roused by the duke of York's affair was fanned by the Walcheren disaster—and this event provoked an important trial of strength in the Common Council. On 5 December Waithman proposed an address to the king which was a thoroughgoing attack on the ministry and its policies and called for a general inquiry into the failure of recent operations in the Peninsula and Holland. The address was carried, but only by 68 votes to 67;¹ and Waithman's opponents counter-attacked at another meeting of the court on the 13th, when a much milder address requesting an inquiry into the conduct of the Walcheren expedition was substituted for his (the numbers on the critical division being 117 to 100).² Cobbett remarked in a private letter a couple of days later:

The *resinding* of the resolution in the city, or rather, the *altering* it, does not look so well; but, I should hope, that this desperate attempt of the courtiers will have the effect of completely rouzing the Wards for Sir [sic] Thomas's Day, which will be a guarantee for future success.³

Although in the last two years the Common Council had to a considerable extent changed its tune, this had not been brought about by any substantial change in its personnel: in 1807 and 1808, despite appeals in the press for a 'purging' of the court, there had been little activity among the freemen householders who voted at Common Council elections.⁴ In 1809, however, political excitement did extend to this level. In late November Waithman had published in Cobbett's *Register* a letter to the citizens of London calling on them to prevent the Common Council from being dominated in future by 'place-hunting canker-worms destitute alike of talents, probity and shame'.⁵ A similar appeal appeared in the *Statesman* at the time of the elections, and *The Times* reported 'an unprecedented bustle and tumult' in most of the wards and strong opposition to those councillors who had voted for rescinding the original address.⁶ Fifteen out of the twenty-six wards were contested, and the outcome was the biggest swing to the left for some forty years: Waithman claimed a net gain of about thirty seats.⁷

The proceedings in London—including a Common Hall on 9 January 1810 which instructed the City's representatives in parliament to support any motion for an inquiry into the failure of recent expeditions⁸—may have had some impact on the house of commons. When on 26 January the House

¹C.C. 85, fos. 322–325v. *Statesman*, 6 Dec. 1809.

²C.C. 85, fos. 349v–351v. *Morning Chronicle*, 14, 15 Dec. 1809 (debate and division list).

³Cobbett to John Wright, 15 Dec. 1809, Brit. Mus., Add. MS. 22907 fo. 227.

⁴*Independent Whig*, 20 Dec. 1807, p. 392. *Morning Chronicle*, 17, 22, 24 Dec. 1807, 24 Oct., 22, 23 Dec. 1808.

⁵*Cobbett's Political Register*, 25 Nov. 1809, cols. 799–805.

⁶*Statesman*, 21 Dec. 1809. *Times*, 22 Dec. 1809.

⁷*Times*, 25 Dec. 1809. Waithman to Thomas Creevey, 6 Jan. 1810, Creevey MSS., University College London (microfilm). Cf. I.R. Christie, *Wilkes, Wyvill and Reform* (1962), pp. 33 & n., 57 & n.

⁸C.H. 9, fo. 241.

did resolve on an investigation into the expedition to the Scheldt, Creevey remarked that the City of London and the county of Berkshire (which had also petitioned the king for an inquiry) had 'frighten'd the House of Commons into this vote'.¹ There then followed the series of incidents which resulted in the imprisonment of Gale Jones by the house of commons for protesting against the exclusion of strangers during the Walcheren inquiry, and the imprisonment of Burdett for protesting against the imprisonment of Gale Jones. ~~Waithman was one of the foremost in denouncing the actions and pretensions of the House.~~ On 19 April, ten days after Burdett's arrest, he presided at the second 'Dinner of the Livery of London, Friends to a Constitutional Reform in Parliament', and said in his opening speech 'that all the privileges with which the House of Commons are invested, were intended to fortify them against the encroachments of the Crown, and are privileges to be asserted for the People, and not to be employed against them'.² A resolution to the same effect, moved by the veteran Southwark reformer Samuel Favell³ and seconded by Waithman, was passed at a Common Hall on 4 May. The livery also approved an 'address, remonstrance and petition' to the house of commons condemning the arbitrary imprisonment of Gale Jones and Burdett, demanding the revocation of the proceedings taken against them and calling on the House to adopt an immediate and radical reform.⁴ This petition the Commons refused to receive on account of its disrespectful language and its flat denial of the privileges of the House;⁵ but a new 'address, petition and remonstrance', though scarcely less strong than the previous one, was eventually accepted.⁶

Meanwhile in the country as a whole there developed the most extensive petitioning movement for parliamentary reform since 1793. From places such as Nottingham, Sheffield and Liverpool, as well as from Westminster, Middlesex and Southwark, petitions came in calling for the release of Burdett and Gale Jones and for a reform of the representation.⁷ This revival of reformism in the provinces was of great significance, but perhaps the most notable of all the petitions was that of the Corporation of London. Waithman had been intending for some time to bring forward the question of reform in the Common Council⁸—and thus to put the result of the 1809

¹ Creevey to Mrs. Creevey, 26 Jan. 1810, Creevey MSS.

² *Statesman*, 20 Apr. 1810. Cf. Waithman to Creevey, 1 Apr. 1810, Creevey MSS.; and his speech at a Middlesex county meeting, *Statesman*, 27 Apr. 1810.

³ Cf. *An account of the proceedings of the Electors of Southwark on Wednesday, the 12th April, 1809* (1809), pp. 5-14.

⁴ C.H. 9, fos. 245-248v. *Statesman*, 5 May 1810.

⁵ *Cobbett's Parliamentary Debates*, xvi, cols. 885-902, 922-44.

⁶ C.H. 9, fos. 249v-253v. *Cobbett's Parl. Debates*, xvii, cols. 179-81. Brit. Mus., Add. MS. 27850 fos. 227-8. Sharpe, iii. 277-81.

⁷ *Journals of the House of Commons*, lxx. 293, 389, 426, 501. *Cobbett's Parl. Debates*, xvi, col. 780; xvii, col. 616.

⁸ Waithman to Creevey, 2 Dec. 1809, 1 Apr. 1810, Creevey MSS.

elections to the crucial test. By the end of May eight of the larger City wards had met to express their approval of the proceedings of the Common Hall and their support for parliamentary reform, and some had instructed their representatives on the Common Council to vote for all resolutions and petitions that had reform for their object.¹ The confrontation in the Common Council took place on 6 June. Waithman himself did not introduce the motion for a petition (it was introduced by Quin), but he supported it in a long though moderate speech. He said that he had been a reformer for twenty years, but had never been in favour of universal suffrage: 'some intemperate men might wish for such a plan, but they were neither formidable for numbers nor talents, so as to create any apprehension or alarm'. The petition to the house of commons was also couched in relatively moderate language, but it contained a formidable list of grievances which were all attributed to the lack of a proper representation of the people in parliament. The reforms which the House was pressed to undertake were disfranchisement of corrupt and depopulated boroughs, an extension of the suffrage, the exclusion of placemen and pensioners (except the 'efficient officers of the Crown') and a shortening of the duration of parliaments. The petition was carried by 87 votes to 81,² and the reformers hailed this outcome as a major triumph. The London printer John McCreery wrote to W. S. Roscoe in Liverpool: 'The contest in the Common Council here was grand & decisive, the ministry have lost the City, every effort was tried by them but all would not do'. And *The Times* (at this stage going through an anti-ministerial phase) commented likewise: 'Nothing can more strongly indicate the change which has taken place in the sentiments of this body... than a majority thus obtained against all the influence and exertions which ministers and their adherents have been for a long time using'.³

The summer of 1810 marks the end of the first stage in the revival of City radicalism. The success of 6 June was not in fact so decisive as McCreery hoped. Though after the events of 1808-10 the tories no longer dominated the Common Council as they had done previously, the balance of forces in the court was to be fairly even for the remaining years of the war (which were generally less conducive to radical activity). Over certain issues the 'Patriots' were able to maintain a majority: for instance in protesting against the restrictions placed on the regent's powers in 1811, in expressing disappointment at the fact that no ministerial changes were made when the restrictions expired, and in taking the side of the princess of Wales in her public quarrel with the prince.⁴ However, there were other issues on which the loyalist and conservative element in the Common Council was able to win the upper hand. A notable defeat was sustained by the reformers in

¹ *Statesman*, 17 May 1810. *Alfred and Westminster Gazette*, 31 May 1810.

² C.C. 86, fos. 119v-124v. *Alfred and Westminster Gazette*, 7, 8 June 1810 (debate and division list).

³ J. McCreery to W. S. Roscoe, 9 June 1810, Roscoe MSS., no. 2059. *Times*, 7 June 1810.

⁴ C.C. 86, fos. 262v-264v, 290-291v; 87, fos. 193v-196, 506v-509v.

May 1811. Major Cartwright was planning another general meeting of supporters of parliamentary reform, and at Alderman Wood's suggestion (though against Waithman's advice) an application was made to the Common Council for permission to hold the meeting at the Guildhall. This request was considered and granted on 22 May; but the opponents of reform claimed that only those sympathetic to the application had known of it in advance, and they alleged that the grant of the Guildhall for such a purpose would be a most undesirable precedent and would jeopardize the peace of the City. On 31 May the Common Council was convened to reconsider the question and the former decision was reversed, the reformers being defeated by 119 votes to 80.¹ Also, of course, the military successes of the last few years of the war gave a great advantage to the ministerialists. In February 1810 a petition deploring the grant of a pension to Lord Wellington had been carried in the Common Council by 65 votes to 58, but in 1811 the same body voted him the freedom of the City, and after Salamanca it added that the freedom should be conferred in a gold box.² In June 1814 after the signing of the peace treaty with France a long congratulatory address to the regent was approved, declaring that the war had been wisely and courageously prosecuted and that the 'astonishing energies' which the nation had displayed in the course of it had been 'called forth by that admirable constitution of government which Britons possess'.³

The behaviour of the Common Council showed that the City had not yet gone definitely into opposition—and this was also apparent from the contest in the City at the general election of 1812. Had the election taken place some three years earlier Waithman might well have won a seat;⁴ but in October 1812 there was much less anti-government feeling, and three of the successful candidates were ministerialists. Waithman nevertheless maintained that with Combe being returned at the head of the poll and two reformers (himself and Wood) obtaining a respectable number of votes there was some cause for encouragement; it was impressive, he said, that so many liverymen were prepared to vote independently

in the midst of the corruption of this great city—against the influence of the India House, of the Bank, of the South Sea House, of the Post Office, of the Custom House, of the Excise, and all the other powerful interests to which public corruption and an immense taxation gave birth.⁵

¹Cartwright's printed circular dated 17 Apr. 1811, Roscoe MSS., no. 761. C.C. 86, fos. 386v-387v, 400-5. *Alfred and Westminster Gazette*, 24, 31 May, 1 June 1811.

²C.C. 85, fos. 420-422v. Sharpe, iii. 275-6, 286.

³C.C. 89, fos. 37-39v. Cf. *Quarterly Review*, xvi (Oct. 1816), 242-4, where this address ('Philip sober') is contrasted with that of Nov. 1816 ('Philip drunk') which described the late wars as 'rash and ruinous, ... unjustly commenced and pertinaciously persisted in'.

⁴Cf. Thomas Grenville to Earl Fitzwilliam, 6 Nov. 1809, Fitzwilliam MSS., Northamptonshire R.O.

⁵*Statesman*, 10, 13 Oct. 1812.

How important government influence was in City elections in the early nineteenth century it is not easy to say. According to Francis Place many City electors imagined themselves to be under an influence which they could not resist, when in fact they could have easily defied it.¹ But whether the influence was real or imaginary, it may provide at least part of the explanation for the contrast between the behaviour of the livery in the Common Hall and their behaviour as parliamentary voters.² The 'patriotic linen-draper' (as the *Satirist* derisively called him) was still a *bête noire* of the loyalists,³ and those who wished to avoid giving offence to the authorities were doubtless chary of polling for him. On the other hand a vote for the whiggish and respectable Combe, a former lord mayor and a member of Brooks's, was much less of an act of defiance against the establishment—and this may partly account for the fact that Combe obtained nearly twice as many votes.

It is not the whole explanation, however. While Waithman's supporters at the election were urged to vote for Combe, Combe's were not urged to vote for Waithman, and the latter felt that he had reason to resent the lack of support given him by Combe's whig friends.⁴ Waithman's relationship to the whig party is a topic of some importance which needs to be examined, with reference to previous events, in a paragraph of its own. From his early days in politics he seems to have regarded himself as a Foxite.⁵ His aims in the seventeen-nineties were clearly in tune with those of the Foxite Opposition, and when the Grenville-Fox ministry was formed in 1806 he seconded the motion in the Common Council for a congratulatory address to the king.⁶ He also belonged to the Whig Club, which passed a vote of thanks to him after the Common Council's economical reform petitions of March 1808.⁷ However, in 1809 he was much disappointed by the failure of the Opposition leaders to give firm support to Colonel Wardle, and at Cartwright's reform dinner on 1 May he expressed a disillusionment with the whigs that had evidently been growing on him for some time. After an earlier speaker (William Smith, M.P. for Norwich) had warned the meeting not to be too sanguine about the prospects of reform, Waithman deplored this discouraging attitude and asked what had become of the reforming enthusiasm of the erstwhile Friends of the People. When the whigs had come into

¹ Brit. Mus., Add. MS. 27838 fo. 18.

² Cf. Waithman's remarks at a meeting of the Common Council after the election, *Statesman*, 30 Oct. 1812.

³ *Satirist*, 1 June 1810, pp. 539-40; 1 July 1810, pp. 71-2. Waithman had had the windows of his shop broken during the Jubilee celebrations of Oct. 1809 (*Examiner*, 29 Oct. 1809, p. 694).

⁴ *Statesman*, 2, 5 Oct. 1812. John Goodwin to Earl Grey, 24 Dec. 1812, Grey MSS., University of Durham.

⁵ He later recalled the openness and candour with which he had been treated by Fox himself (Waithman to Lord Holland, 15 Jan. 1818, Brit. Mus., Add. MS. 51829).

⁶ *Morning Chronicle*, 15 Feb. 1806.

⁷ *Flower's Political Review*, Apr. 1808, p. 237.

power, he said, they had not merely failed to carry any of their great professions into execution but had not even expressed any intention of doing so; and he maintained that their conduct during the last few years had been even more regrettable than that of the Pittites, who had at least acted consistently as the professed lovers of the existing system.¹ Later in 1809, when moving his address of 5 December over the Walcheren expedition, he said that no change of ministers would do the country much good unless the whole system of government was changed; and he asked why men such as Grey, who had called for reform in the seventeen-nineties and had seceded from parliament on account of the apathy of the public, should show so little inclination to pursue their old aims now that public spirit was reviving.² This speech produced a reaction from the whig leaders—but essentially a negative one. Lord Holland said in a speech at Nottingham that although a reform of parliament might be desirable it was far from true that no good could be done without it.³ As for Grey, he inveighed in a letter to Holland against those whose sole aim was 'the degradation of all public characters'; with such people, he wrote,

I cannot consent to an endeavour to keep any terms, & if that policy should be adopted I can hardly look to any other consequence than my separation from those who pursue it. Indeed when I am personally attacked as I have been, particularly by Mr. Waithman, upon ground which was created only by his own misrepresentations, I think I have a right to claim it of my friends as due to me to mark strongly their reprobation of his conduct.⁴

There was an oblique reference here to Grey's brother-in-law Whitbread and the group of whigs known as 'the Mountain', who had shown themselves far more inclined towards popular courses than the whig leaders and had actually fraternized with Waithman, several of them attending his livery dinner in April 1809.⁵ Waithman himself had welcomed their co-operation, for although some radicals were so incensed against the whigs that they refused to have anything to do with whiggery or 'party' in any form, he said publicly that he had nothing against party as such and nothing against whig principles as he understood them.⁶ He recognized that it was only through the aid of a major party in the house of commons that reform could be peacefully achieved; and he intended to provide what he could in the way of extra-parliamentary backing for those whigs who supported reform, in the hope that the leaders of the party would eventually be

¹ *A full and accurate report of the meeting at the Crown and Anchor*, pp. 31-9.

² *Statesman*, 6 Dec. 1809.

³ *Morning Chronicle*, 27 Dec. 1809. Cf. Holland to Francis Horner, postmarked 10 Jan. 1810, Horner MSS., British Library of Political and Economic Science—which shows that Holland's speech was intended as a reply to Waithman's.

⁴ Grey to Holland, 5 Jan. 1810, Grey MSS.

⁵ *Morning Chronicle*, 22 Apr. 1809. Cf. Creevey to Samuel Whitbread, 8 Apr. 1809, Whitbread MSS., no. 373/14, Bedfordshire County R.O.

⁶ See his speeches reported in *Morning Chronicle*, 7 Apr. 1809, and *Statesman*, 3 Aug. 1809.

induced to take it up again themselves. During the next few years a close association existed between Waithman and the whigs of the Mountain, who wished to push the Opposition leaders in the same direction and regarded him as a useful and sensible ally.¹ However, although he tried both in public and private to make the whig leaders see the error of their ways and to convince them that 'if they declared themselves in favor of reform they would have the City of London and the whole Country at their backs',² his efforts were all to no avail. Eventually his impatience with them (exacerbated no doubt by his feelings over the 1812 election) led him into an unfortunate confrontation with Grey. The occasion was a meeting in June 1814 of 'friends to the abolition of the slave trade', there being at that time much public indignation over a clause in the peace terms which allowed France to continue her slave trade for five years. Lord Lansdowne was in the chair and Grey seconded the resolutions (which were moved by Wilberforce). Waithman, from the floor, moved a vote of thanks to those responsible for calling the meeting, and went on to express his gratification at 'the deference which some Noble Lords had to-day shewn for the public opinion'; having 'frequently felt the want of their countenance and support, ... he rejoiced in this auspicious change, and he trusted that the example now set would in future be frequently followed'. Such remarks on such an occasion were unwise, and Grey was very cutting in reply, saying that 'a moment when all were unanimous in the cause of justice and benevolence, was not exactly the time for introducing personal animosities'. When Waithman tried to explain his remarks he was shouted down.³

While Waithman was mainly occupied during the war years in doing battle on his right against tories and 'high' whigs, there were some indications towards the end of the war of incipient trouble on his left. It was not at this stage over the reform question that disagreement arose. Waithman was correct when he said in the Common Council debate in June 1810 that very few reformers were calling for universal suffrage; Cartwright and Cobbett were both committed to the taxpayers' franchise which Burdett had advocated in the house of commons in June 1809,⁴ and universal suffrage being little canvassed, Waithman's avowed hostility to it did not expose him to attack. It was rather his whig connections that aroused suspicion. Cobbett had reproved him in April 1808 for attending the Whig Club;⁵ and in 1810-12 there were signs of opposition within the livery from a few people who felt that he was not sufficiently anti-whig and that some of his parliamentary associates, such as Whitbread and George Byng (M.P. for

¹ See for instance Whitbread to Lord Grenville, 25 Apr. 1810 (draft), Whitbread MSS., Chewton House, near Bath (consulted by kind permission of Earl Waldegrave); Henry Brougham to Creevey, Wednesday [28 Apr. 1813], Creevey MSS.

² *Morning Chronicle*, 4 May 1811. *Statesman*, 11 June 1811; Brit. Mus., Add. MS. 27839 fo. 194. Waithman to Creevey, 28 March 1812, Creevey MSS.

³ *Morning Chronicle*, 18 June 1814.

⁴ J. Cartwright, *Reasons for Reformation* (1809), p. 13. *Cobbett's Political Register*, 21 Apr. 1810, col. 599.

⁵ *Cobbett's Political Register*, 16 Apr. 1808, col. 580.

Middlesex), were not wholeheartedly committed to the people's cause.¹ Distrust of him on these grounds increased in 1813, when over the affair of the princess of Wales he co-operated with the princess's personal advisers Whitbread and Brougham, instead of co-operating (as Wood did) with Cobbett, who was competing with the Mountain for the credit of championing her cause and wanted to make her the focus of a great popular campaign.² The affair soon blew over (for the time being); but Cobbett was from now on to be one of Waithman's fiercest opponents, and Henry Hunt became a member of the livery specifically in order to 'counteract the tricks and intrigues of the Whig or Waithmanite faction in the City'.³

At the end of the war Waithman thus found himself being regarded by the whigs (or many of them) as a dangerous radical and by the radicals as a whig. The post-war period was to see an intensification of internecine conflict on the left—though first, in the City at least, there was a period of relative solidarity. Over the Corn Bill and the proposed continuation of the income tax there was strong feeling in London, and the City (with Waithman very much to the fore) took a major part in the agitations against both.⁴ Then in the latter part of 1816 attention shifted to parliamentary reform. One result of the very general and severe distress of that winter was that the Common Council turned decisively against the ministry and in favour of reform. At a meeting on 28 November Waithman moved resolutions attributing the country's troubles to the corrupt state of the representation, and whereas the reform petition of 1810 had been carried by only a handful of votes, these resolutions were passed by a very large majority (according to the *Morning Chronicle* only eight or ten hands being held up against them).⁵ He again received overwhelming support in January 1817 when he proposed that the court should petition the two houses of parliament for triennial elections and the enfranchisement of copyholders and taxpaying householders.⁶ Meanwhile it was in the Common Hall rather than the Common Council that serious opposition to his policies developed. Hunt, having intervened on a couple of occasions to criticize the proceedings of the livery as too moderate,⁷ claimed at the great popular meeting in Spa Fields on 15 November 1816 that he himself was the real champion of the people of

¹ Waithman to Creevey, 26 Apr. 1810, Creevey MSS. Creevey to Whitbread, Wednesday [9 May 1810], Whitbread MSS. (Bedford), no. 379/2. *Examiner*, 27 May 1810, p. 335; 24 June 1810, pp. 395-6. *Statesman*, 11 May 1812.

² Waithman to Whitbread, 22 Apr. 1813, Whitbread MSS., no. 2867. Cobbett, *History of the Regency and Reign of George IV* (2 vols., 1830-4), i, paras. 159-97.

³ H. Hunt, *Memoirs, written by himself* (3 vols., 1820-2), iii, 159-64.

⁴ C.C. 89, fos. 2-3v, 171-173v. C.H. 9, fos. 296-9. *Statesman*, 28 May, 10 Dec. 1814. Waithman to Whitbread, endorsed Nov. 1814, Whitbread MSS., no. 5328. Sharpe, iii, 292-5.

⁵ C.C. 90, fos. 377-380v. *Morning Chronicle*, 29 Nov. 1816.

⁶ C.C. 91, fos. 9-15. *The speech delivered by Mr. Waithman in the Court of Common Council on the 23d of January, 1817, upon a motion for petitioning parliament for a reduction in the public expenditure and a reform in the representation of the people* (1817).

⁷ *Statesman*, 14 Dec. 1814. *Morning Chronicle*, 22 Aug. 1816.

London; the 'City Patriots' of Waithman's ilk, he said, were basically unconcerned about the sufferings of the poor and were 'afraid to appear any where except in their own little conclave and surrounded by their own myrmidons'.¹ In the Common Council on 28 November Waithman said in reply (showing some prescience, in view of the attempted insurrection which emerged from the second Spa Fields meeting on 2 December) that he had no objection to popular meetings,

even in the fields, when other places were denied them; but while every man could meet in his own ward or his own parish, he was not friendly to an assembly which professed to call exclusively upon the lowest order of the people, and which, by being held in the open air, would naturally contain loose and suspicious individuals.²

On 29 November the two men came into direct conflict when resolutions in favour of universal suffrage and annual parliaments were moved at a Common Hall, and seconded in a long speech by Hunt. Waithman proposed as an amendment another set of resolutions which recommended in more general terms 'that parliaments may be reduced to a constitutional duration, and that the people may be restored to their fair and just share in the election thereof'. He opposed the original resolutions as calculated to divide the friends of reform; and his counter-resolutions were eventually adopted, though not by a very large majority.³ He won another victory, this time more decisive, on 31 January 1817 when Hunt made an unsuccessful attempt to substitute annual for triennial parliaments in a petition of the livery to the house of commons.⁴ Hunt did achieve one success at Waithman's expense later in 1817. When at the end of May Alderman Combe wrote a letter to the livery regretting that ill health had prevented him from opposing the government's repressive legislation in the Commons, Hunt declared that the City needed a representative who *could* attend and protest against such measures; and he moved and carried (after a stormy debate) a resolution requesting Combe to resign his seat.⁵ Matthew Wood was lord mayor, and Hunt calculated—as he explains in his memoirs—that if Combe could be made to resign at this point, Wood (whom Hunt refers to as 'my worthy friend') would be certain to obtain the vacant seat. This is just what happened: Combe took the Chiltern Hundreds, Wood was nominated to succeed him, and Waithman, while reminding the livery that he had obtained more votes than Wood at the last election, offered no opposition.⁶ However, this was merely a personal setback for Waithman. In the Common Hall he confirmed his dominance over the extreme radicals in the following February, when he and Favell moved resolutions complaining of the oppressive conduct of ministers during the suspension of the

¹*Times*, 16 Nov. 1816.

²*Morning Chronicle*, 29 Nov. 1816.

³C.H. 9, fos. 348v–350v. *Morning Chronicle*, 30 Nov. 1816.

⁴C.H. 10, fos. 6–13. *Morning Chronicle*, 1 Feb. 1817.

⁵*Morning Chronicle*, 31 May 1817.

⁶*Ibid.*, 4, 5, 11 June 1817. Hunt, iii. 484–91.

Habeas Corpus Act. T. J. Wooler, editor of the *Black Dwarf*, objected to these resolutions as insufficiently strong and moved another set of his own, which Hunt seconded. But their proposals were negatived by a large majority, and *The Times* commented:

That party, whose ignorant and disgusting violence has long done so much injury to the cause of the people, and afforded the only pretext for the late inroad on the Constitution, were wholly baffled and disgraced by the more scientific movements of the friends of rational and constitutional reform.¹

Waithman thus managed to keep the livery as well as the Corporation committed to the moderate position which he favoured—but efforts to build up a movement for moderate reform on a wider stage were less successful. He was involved in such an attempt early in 1817. The leaders of the popular radical agitation had planned for 22 January a meeting in London to be attended by delegates from Hampden and Union Clubs all over the country.² Waithman himself had been elected to the original Hampden Club in June 1812 (at the same time as Lord Byron),³ but he now felt that Cartwright and his friends were going too far.⁴ He therefore welcomed the news that some respectable Westminster tradesmen who favoured economy and moderate reform and wished to declare their separation from the extremists were planning a dinner-meeting in London and were hoping to establish some concert with the parliamentary Opposition.⁵ He eagerly associated himself with this project, and wrote to Lord Holland on 14 January:

It is to be regretted that there has been so little communication between the leading Members opposed to the present corrupt system of Government, and those who have devoted their labors to the same end in the City of London that they have scarcely ever understood each others views as to the most effective mode of proceeding. The time has now arrived when the circumstances of the Country, and the distresses of the people, will force upon the consideration of Parliament, the question of reform, both with regard [to] the expenditure of the public money and the state of the representation in a manner not to be resisted.—To give to the public opinion a safe temperate and constitutional direction must depend upon the great and leading Characters in Parliament, and men of respectability throughout the Country,—unless they now come forward I fear the business will fall into bad and unskilful hands,—whose folly and violence may lead to mischeivous consequences.—I am glad to find a meeting is to be held, which I mean to attend on Friday next at the free masons Tavern with a view of bringing forward and uniting the leading and respectable part of the community.⁶

¹C.H. 10, fos. 48-56. *Times*, 25 Feb. 1818.

²Minute of 30 Dec. 1816, 'Proceedings of the Hampden Club 1814-22', Brit. Mus., 8135 f. 19.

³*Examiner*, 14 June 1812, p. 384.

⁴For his disagreement with 'the indefatigable Major', see Waithman to Holland, 14 Jan. 1817, Brit. Mus., Add. MS. 51828.

⁵On the origins of this plan and the first approaches to the whigs, see George Tierney to Grey, 19, 24 Dec. 1816, Grey MSS.

⁶Brit. Mus., Add. MS. 51828.

When this meeting took place on 17 January Waithman was one of the main speakers and made an earnest and conciliatory appeal to the whigs.¹ A week later he was part of a deputation that waited on Lord Grey to ask his support for the objects of the meeting;² and he also requested Grey and Holland to present to the house of lords the petitions for moderate reform which were approved by the Common Council on 23 January and by the livery on the 31st. Writing again to Holland shortly before these were due to be presented, he said that if only the whigs would commit themselves to the people, the latter

would immediately discard all visionary adventurers and your Lordship and your friends might immediately carry the whole country along with you—you may lose a few votes in parliament altho I greatly doubt it, but you will be more than compensated by the affection and support of a grateful nation.³

However, these appeals had as little effect as those he had made five or six years before. Holland wrote to Waithman before the Freemasons' Tavern meeting saying that although the Opposition was united on the questions of retrenchment and religious liberty there was no consensus, either inside or outside parliament, on the question of parliamentary reform—which was therefore unlikely, in the foreseeable future, to be a practicable measure.⁴ Tierney did apparently feel at this time that the whigs should put themselves at the head of the moderate reformers, but Thomas Grenville thought it would be thoroughly objectionable to 'curry favour with Waithman by voting for triennial Parliaments', and Grey was convinced that the reform question should be left to individuals and excluded from any consideration of what the party stood for.⁵ In his interview with the Freemasons' Tavern deputation Grey referred them to the distinctly lukewarm remarks he had made about reform in 1810; and in presenting the City petitions to the house of lords on 18 February he and Holland both spent less time recommending reform than they did explaining why it should *not* be regarded as indispensable.⁶ The Freemasons' Tavern group (who called themselves the Friends of Economy, Public Order and Reform) had planned a second meeting to which whig sympathisers in parliament would be invited, but when this was held on 22 February the only M.P.s who attended were Thomas Brand and Sir Francis Burdett.⁷

Waithman subsequently wrote with some bitterness of the frigidity and evasiveness the whigs had shown over the whole episode.⁸ No doubt their

¹ *Morning Chronicle*, 18 Jan. 1817.

² Lady Holland to Horner, 25 Jan. 1817, Brit. Mus., Add. MS. 51644.

³ Waithman to Holland, 10 Feb. 1817, Brit. Mus., Add. MS. 51828.

⁴ Holland to Grey, 17 Jan. 1817, Grey MSS.

⁵ Hist. MSS. Comm., *Fortescue MSS.*, x. 421. Grey to Holland, 17 Jan. 1817, Grey MSS.

⁶ Lady Holland to Horner, 25 Jan. 1817, Brit. Mus., Add. MS. 51644. Hansard, *Parl. Debates*, xxxv, cols. 420–8.

⁷ Tierney to Grey, 24 Dec. 1816, Grey MSS. *Morning Chronicle*, 24 Feb. 1817.

⁸ Waithman to Holland, 15 Jan. 1818, Brit. Mus., Add. MS. 51828.

unresponsiveness could partly be explained as a reaction against radical extremism: Waithman himself said at the Common Hall of 31 January—ten days after Cartwright's meeting of delegates at the Crown and Anchor had approved a resolution moved by Hunt in favour of universal suffrage¹—that 'he thought the harsh and unaccommodating spirit of those who had led the petitioners of the working classes was one great cause which had prevented the higher ranks also from co-operating in the cause'.² But he certainly considered that the whigs themselves were very much to blame in that by failing to commit themselves on the main question that was agitating the country they did nothing to challenge the influence of the extremists and to prevent a possibly dangerous polarization. He also thought that they were misjudging their own interest as a party. Grey's fear was that by making reform into a party tenet he would 'lose the co-operation of many honourable and powerful men';³ but Waithman may have been right in thinking that the loss of the Grenvilles (who were anyway on the point of separating from the Foxites) and the alienation of one or two powerful whig families would have been more than counterbalanced by the acquisition of a firm basis of support in middle-class opinion—even allowing for the difficulty, under the unreformed system, of translating such support into parliamentary strength. It was significant that at the general election of 1818 almost all the gains made by the Opposition were made by candidates who were avowed reformers—such men as C. F. Palmer, D. W. Harvey, William Williams, Sir Robert Wilson and Waithman himself—rather than by 'high' whigs. John Colman Rashleigh, the Cornish reformer who, like Waithman, had been urging the whigs to take up moderate reform, wrote in 1819:

The issue of the late Election has, it is said, been appealed to by the Whigs, as a triumphant proof of their returning popularity; but where has there been an Election at which the sense of the people was really taken, and at which an opponent of the Ministry was returned, and *the object of the public choice has not been a known Reformer?* and that circumstance, his strongest recommendation?⁴

The contest in the City provided the reformers with the most notable of their successes at this general election. Three of the candidates returned, Wood, Waithman and Alderman J. T. Thorp (who had moved the resolutions at the Freemasons' Tavern meeting in January 1817) were committed to reform.⁵ It is true that in the general election of 1820 there was to be a reaction: the election took place soon after the exposure of the Cato Street conspiracy, and the tories—partly it seems through a systematic use of

¹ *Examiner*, 26 Jan. 1817, pp. 57-8.

² *Morning Chronicle*, 1 Feb. 1817.

³ See J. R. Fenwick to Wyvill, 28 Dec. 1816, Wyvill MSS., Yorkshire North Riding County R.O.

⁴ *The speech of John Colman Rashleigh, Esq., on returning thanks for the silver vase, voted to him by public subscription, for his exertions in the cause of a parliamentary reform* (1819), p. 57n.

⁵ *Statesman*, 6, 17, 18, 23, 24 June 1818.

influence against Waithman¹—succeeded in ousting both him and Thorp. He was re-elected, however, in 1826 and remained a member for the City until his death in 1833. During the last fifteen years of his life he held several distinguished positions: besides his membership of parliament he was an alderman from July 1818, sheriff in 1820–1, and lord mayor in 1823–4. Yet it was the earlier part of his career that saw his most impressive achievements. For one thing it was a remarkable success-story. It was thought to be unprecedented for a retail trader to become a member of parliament for the City, and it was very rare for a Common Councillor to do so without graduating through the Court of Aldermen.² Waithman was not of course the 'mere shopkeeper' that his opponents made him out to be: he was a man of considerable substance who had handed over the running of the business to his sons and owned a house at Winchmore Hill and a hundred acres.³ But his humble background and lack of education had exposed him to much prejudice and hostility. The whig poet Thomas Moore wrote in June 1811 about a recent fête at Carlton House: 'It was said that Mr. Waithman, the patriotic linendraper, had got a card; and every odd-looking fellow that appeared, people said immediately, "That's Mr. Waithman"'. To Coleridge, Waithman was a typical example of the loquacious but uncivilized radical—as essentially savage (the poet said) as a negro or New Zealander.⁴ Others charged him with inflated ambition and self-importance. He did have a tendency towards egotism and self-righteousness;⁵ and—although in someone of higher social status this would doubtless have been less remarked on—he was certainly ambitious. When accused at a ward meeting in 1812 of wishing to use the Common Council as a stepping-stone to parliament, he did not deny the charge but asked why such an ambition should be considered wrong. What he did deny was that he had ever made his public conduct subservient to his private aims;⁶ and to the historian his personal successes and shortcomings are of less significance than the principles which he consistently represented and did much to revive.

His radicalism was basically of the kind that Engels was to brand contemptuously as 'shopkeepers' radicalism':⁷ indeed he might figure in Marxist demonology as the prophet and prototype of the post-1832 shopoc-

¹*Times*, 26 Feb., 17 March, 13 Apr. 1820. Cobbett's continuous abuse of him as a lukewarm moderate, a 'shoy-hoy', an 'empty insignificant coxcomb', etc., may also have had some effect (*Cobbett's Political Register*, 28 Nov. 1818, cols. 289–96; 14 Aug. 1819, cols. 22–4; 2 Oct. 1819, col. 211).

²Cf. *Morning Chronicle*, 13 March, 26 June, 9 July 1818.

³*Ibid.*, 23 May 1807, 15 Aug. 1817.

⁴*The Letters of Thomas Moore*, ed. W. S. Dowden (2 vols., Oxford, 1964), i. 153. *The Letters of S. T. Coleridge*, ed. E. L. Griggs (6 vols., Oxford, 1956–72), iv. 714.

⁵Cf. Cobbett, *Regency and Reign of George IV*, i, para. 177; Goodwin to Grey, 24 Dec. 1812, Grey MSS.; Roberts, p. 246n. (quoting from Crabb Robinson's diary).

⁶*Statesman*, 22, 24 Dec. 1812.

⁷F. Engels, *The Condition of the Working Class in England*, introduced by E. Hobsbawm (1969), p. 266.

racy. In 1812, in response to the attempts of his opponents to ridicule his pretensions as a parliamentary candidate, he asked why the shopkeepers of the nation should not be represented in the legislature as well as landowners and merchants;¹ and several of his main political preoccupations—notably his campaign against the income tax and his strong opposition to the Insolvent Debtors Act (which, he said, had ‘opened the flood gates of fraud extravagance and dissipation to the loss and ruin of the industrious and honest’)²—reveal his concern for the interests of this class. Moreover, like Francis Place, whom in many ways he resembled, he seems to have derived from his own experience an unrealistic idea of the value of the ‘middle-class virtues’ as a prescription for society in general. The nature of his social and economic assumptions can be gathered from two long speeches he delivered at public meetings held in August 1817 to consider Robert Owen’s ‘Plan for the Employment, Instruction and Re-moralization of the Poor’. He said of Owen’s scheme for villages of co-operation:

...the object of Mr. Owen’s plan was to ameliorate the condition and character of society. Could, however, such a result be looked for from the adoption of a plan which proposed to isolate a great body of the people—to exclude them from all the prizes that were held out to society at large to excite to exertion and industry? Could any good consequence be expected from a plan, which would operate to suppress the best motives of human action, and to extinguish the warmest feelings of the human heart, by shutting up the people in barracks?

He objected to a system in which parents would no longer be responsible for the care of their own children, and in which ‘all distinctions of intellect and industry’ would be ignored. The ultimate tendency of Owen’s plan, he thought, was ‘that all the property of the country should be placed under the management of Government, which, in return, was to supply the people with merely food and raiment’—and in such a state of affairs all feelings of self-reliance would be obliterated. At the second of the two meetings Waithman moved as an alternative to Owen’s proposals, and carried by a majority of two to one, resolutions calling for ‘such a system of reformation and retrenchment as would tend to restore the happiness and the prosperity of the nation’.³ Like most radicals of his day (including Hunt and Cobbett) he tended to attribute distress too sweepingly to high taxation; and like them he lacked what E. P. Thompson calls a ‘constructive social theory’.⁴ Yet the limitations of his outlook and sympathies should not be exaggerated. Though he was a believer in incentives and self-help, he was not an inhumane laissez-faire dogmatist. He advocated the enclosure of common lands to provide smallholdings for the poor, and he expressed himself strongly in favour of legislation to limit the working hours of children—not only in

¹*Statesman*, 2 Oct. 1812.

²Waithman to Whitbread, endorsed Nov. 1814, Whitbread MSS., no. 5328. Cf. Hansard, *Parl. Debates*, xxxix, cols. 180-2.

³*Morning Chronicle*, 15, 22 Aug. 1817.

⁴E. P. Thompson, *The Making of the English Working Class* (2nd edn., 1968), p. 862.

factories but in the 'sweated trades' which he knew at first hand.¹ Still, it is certainly in the political field that he has most claim to be regarded as constructive. He led the long campaign which transformed the City of London from a bastion of Pittite loyalism into one of moderate reform; and within the national reform movement (although at times his attitude to the whigs may have been too harsh and antagonistic) he deserves to be remembered as a pioneer of conciliation. He said in 1813 that the intention of his annual dinners of the livery was to remove the mutual suspicions of the aristocratic and plebeian sections of the reform movement, and in the Common Hall in November 1816 he said, 'My wish is to procure a rational and constitutional Reform, and that can only be obtained by conciliating the union of all its friends, by promoting their complete and cordial co-operation'.² It was by such means—though the actual proposals he put forward in 1817 were closer to the second Reform Bill than to the first—that the measure of 1832 was to be carried. When this was originally introduced in March 1831 the Common Council led the petitioning movement in its favour,³ and in the debates that followed Waithman was one of the bill's firmest supporters in the house of commons.

J. R. DINWIDDY

¹*Morning Chronicle*, 15 Aug. 1817.

²*Statesman*, 15 Apr. 1813. *Morning Chronicle*, 30 Nov. 1816.

³J. R. M. Butler, *The Passing of the Great Reform Bill* (1914), p. 201. In the Common Council, according to Wood, only one hand was held up against the petition (Hansard, *Parl. Debates*, 3rd ser., iii, col. 14).

Notes and Documents

The Cambridgeshire Election of 1439

DETAILED ACCOUNTS now exist of several disputed and contested parliamentary elections of the fifteenth century, whilst a number of others have been more briefly discussed by Mr. McFarlane and Professor Roskell.¹ The evidence is already perhaps sufficient to show that local and national faction was often involved in the choice of knights of the shire and, perhaps less often, of burgesses, and that most of the electoral malpractices of Elizabeth I's reign, so graphically described by Professor Neale, were well known a century or more earlier.² Yet, considering the number of fifteenth-century parliaments, the evidence for election disputes remains scanty and much is still to be learned about the attitude of the magnates, gentry and freeholders to the choice of knights of the shire, about the means employed, such as canvassing, to secure election, and the political issues, local and national, involved. The document printed below provides further information on these matters.

On 26 September 1439 writs were issued for a parliament to meet on 12 November; on 22 October fresh writs were sent out, altering the venue from Oxford to Westminster. The parliament met on 12 November, was adjourned to Reading on 21 December and finally dissolved in mid February 1440.³ It was a fairly typical parliament of the first half of the reign of Henry VI: there was clearly some disgruntlement with government policy and in particular with the finances of the household but taxes were granted, money was appropriated for the expenses of the household, and a number of

¹E.g. C. H. Williams, 'A Norfolk parliamentary election, 1461', *Eng. Hist. Rev.*, xl (1925), 79-86; R. Virgoe, 'Three Suffolk parliamentary elections of the mid-fifteenth century', *ante*, xxxix (1966), 184-96; K. N. Houghton, 'A document concerning the parliamentary election at Shrewsbury in 1478', *Trans. Shropshire Archaeol. Soc.*, lvii (1961-4), 162-5; J. G. Edwards, 'The Huntingdonshire parliamentary election of 1450', in *Essays in Medieval History presented to B. Wilkinson*, ed. T. A. Sandquist and M. R. Powicke (Toronto, 1969), pp. 383-95. Mr. McFarlane discussed several Norfolk elections in 'Parliament and bastard feudalism', *Trans. Royal Hist. Soc.*, 4th ser., xxvi (1944), 53-79, and Professor Roskell described the election for Derbyshire in 1427 and for Cumberland, Buckinghamshire and Huntingdonshire in 1429 in *The Commons in the Parliament of 1422* (Manchester, 1954), pp. 15-21.

²J. E. Neale, *The Elizabethan House of Commons* (1949); 'Three Elizabethan elections', *Eng. Hist. Rev.*, xlvii, 209-38 and 'More Elizabethan elections', *ibid.*, lxi, 18-44.

³*Interim Report of the Committee on House of Commons personnel and politics, 1264-1832*. Cmd. 4130, pp. 86-7. H.C. (1931-2). X, 545.

acts affecting local officials and commerce were passed. The parliament roll, however, records that on 16 November the king and Lords were informed of a return made by Gilbert Hore, sheriff of Cambridgeshire, explaining why he had failed to return two knights of the shire to the parliament. The sheriff's reasons are not given on the roll but can be partly inferred from what follows. After consideration and with the advice and consent of the Lords, the king ordered another writ to be sent, bearing the same date as the first, commanding the sheriff to hold the election in the next shire court. Before he proceeded to the election, however, he was to proclaim publicly that no armed person should attend the court or interfere with the election, and that no one should have a voice in the election or interfere with it save those who were statutorily entitled to do so. The sheriff was to commit all offenders to prison and keep them there until the king required their release.¹

Further information on this incident is provided by a warrant dated 17 November for letters to be sent to the chancellor of Cambridge University and the mayor of Cambridge. No regnal year is given on this document and it is printed without a date in the *Proceedings of the Privy Council*, but the original has rightly been placed among the warrants for 18 Henry VI in the Council and Privy Seal files in the Public Record Office.² The warrant recalls that the sheriff had been unable to return knights of the shire because of 'the multitude of people as it semed of lyklynnesse ryotously gadered': as the next shire court was soon to be held, the chancellor and mayor are commanded to ensure that no student or townsman does anything to disturb the election. In 1439 the Cambridgeshire shire day was 19 November and the coincidence of time, place and circumstances makes it almost certain that these letters were issued as a direct result of the action of the king and Lords which is described on the parliament roll.

There is no doubt, then, that the Cambridgeshire election of 1439 was disturbed and unruly in somewhat similar ways, for instance, to those at Huntingdon in 1429, Ipswich in 1453 and Norwich in 1461.³ The implication, as with these other cases, is that various factions in the county were interested in the election and that, in consequence, there was some sort of contest. The returns for the 1439 parliament do not survive but the appointment in 1440 of the commissioners to distribute the allowances made on the subsidy makes it clear that William Allington the younger and William Cotton were the two men returned for Cambridgeshire, no doubt at the county court on 19 November. The names tell us nothing about the causes of the disturbances but fortunately the story behind the dispute appears in some detail in the document printed below.

¹ *Rotuli Parliamentorum*, v. 7-8.

² *Proceedings of the Privy Council*, ed. N. H. Nicolas, vi. 335: this is printed from an 18th-century transcript, British Museum, Add. MS. 4611, art. 74 which bears a modern date 1454. The original is now Public Record Office, Exchequer, Council and Privy Seal, E28/63/30.

³ See p. 95, n. 1.

This document,¹ a small roll, derives from the archives of Earl Manvers, formerly at Thoresby Park, and seems originally to have been part of a small collection of documents formerly belonging to James Butler or Ormond, 1st earl of Wiltshire and later 4th earl of Ormond.² It does not seem to be connected with the official sheriff's return which led to the issue of a new writ, but is rather in the nature of a private report to Cardinal Beaufort, then supreme in the king's council. It is a partisan report, highly favourable to the behaviour of the sheriff, Gilbert Hore, and to Lord Tiptoft, and very hostile to Sir James Ormond and his followers. It seems possible that it was written on behalf of Tiptoft and it may have been before the Lords when the sheriff's return was heard. That it was sent to Beaufort rather than to Bishop Stafford, the chancellor, says much for Beaufort's dominance in the council and administration.

As in the records of most election disputes, the evidence is one-sided and implies rather than states the true origins of the trouble which clearly lay in the rivalry of two local factions. John, Lord Tiptoft, an old Lancastrian retainer, a royal councillor since 1422, and the possessor of large estates, both by inheritance and marriage, had his main seat at Burwell in Cambridgeshire and must for years have been the dominant figure in the county.³ Sir James Ormond, on the other hand, the heir to the earl of Ormond, though apparently not yet of age had inherited both money and land from his grandmother, Joan, widow of William, Lord Abergavenny, and had recently been granted livery of the extensive estates of his wife.⁴ Among his lands was the manor of Fulbourne, Cambridgeshire, which he seems to have made one of his main seats.⁵ The existence in the county of a young, wealthy, well-connected and, as his later career shows, ambitious and quarrelsome nobleman, almost inevitably tended to exacerbate faction and rivalries which no doubt already existed among the gentlemen of the shire. The specific causes of conflict are not certain but one of them appears to have been a dispute over the custody of the honour of Richmond lands in Cambridgeshire. On 18 November 1437 the custody of these lands, which included the manor of Bassingbourne, was granted for ten years to William Phelip, Lord Bardolph, the chamberlain of the household, at a farm to be agreed upon at the exchequer.⁶ On 8 December 1437, however, a life-grant

¹Brit. Mus., Egerton Roll 8792.

²This group includes Brit. Mus., Eg. Roll 8791, discussed below, and several estate documents including Eg. Rolls 8788, 8793-4.

³He was on most important commissions in the county from 1422. For his national career see J. S. Roskell, *The Commons and their Speakers in English Parliaments, 1376-1523* (Manchester, 1965), pp. 147-9, 367-8.

⁴*Cal. Close Rolls 1436-41*, pp. 154-5; G.E.C., *Complete Peerage*, x. 126-8; *D.N.B.*, s.n.; *The Register of Henry Chichele*, ed. E. F. Jacob (4 vols., Canterbury and York Soc., 1937-47), ii. 536 *et seq.*

⁵His main estates were in the west country but he became a J.P. in Cambridgeshire in Nov. 1439 (*Cal. Pat. Rolls 1436-41*, p. 579).

⁶*Cal. Fine Rolls 1435-41*, p. 4. For Bardolph see *Complete Peerage*, i. 420-1.

of the same property was made to Lord Tiptoft.¹ From Ormond's answer to the complaints made by Tiptoft in 1440 it would appear that Tiptoft tried to assert his rights over the land but, aware of his doubtful legal position, sought from the king in May 1439 a new patent back-dated to before the date of the grant made to Bardolph.² In consequence there appears on the patent roll a grant dated 13 November 1437, the date of the king's appointment of his council, by which Tiptoft is granted the lands for life in exchange for the 100 marks a year which he had been granted as a councillor.³ The practice of ante-dating grants had become more common under Henry VI, though such powerful figures as Lord Bardolph would normally have been able to prevent their interests being harmed, and it may well have been this particular incident which inspired the successful Commons' petition during the parliament of 1439-40 that the practice should be forbidden and that in future all letters patent should bear the date of receipt of the warrant in chancery.⁴

It is not apparent how Ormond was affected by this dispute but it seems likely that he had been appointed Bardolph's steward for the Richmond lands or, perhaps, was their lessee. In any case he was able to complain in 1440 that Tiptoft had distrained and assaulted him in connection with these lands.⁵ There were undoubtedly other causes of conflict between the two men, however, and it would seem that the gentry of the county, some, perhaps, tired of Tiptoft's long dominance, split into openly hostile factions. The election of knights of the shire, coming so soon after Tiptoft's new patent, was obviously a trial of strength. Though the document printed below cannot be taken entirely at its face value there is no reason to doubt the allegation that Ormond and his allies, Sir Robert Cromwell, Laurence Cheyne, William Allington and William Cotton engaged in large-scale canvassing and it is likely enough that threats as well as promises were used. Undoubtedly Tiptoft must have seen this as a threat to his position in the shire, especially as his opponents included some of its leading gentlemen—a fact which suggests that there was considerable local discontent with his position.⁶ There can be little doubt that, whatever the

¹*Cal. Pat. Rolls 1436-41*, pp. 120-1.

²*Brit. Mus., Eg. Roll 8791*. Tiptoft's petition for this grant, dated 5 May 1439, is in P.R.O., E 28/60.

³*Cal. Pat. Rolls 1436-41*, p. 193.

⁴*Rot. Parl.*, v. 23; H. C. Maxwell-Lyte, *Historical Notes on the Use of the Great Seal of England* (1926), pp. 253-60.

⁵*Brit. Mus., Eg. Roll 8791*.

⁶Cromwell, a cousin of Ralph, Lord Cromwell, had lands in Lincolnshire, Nottinghamshire and no doubt in Cambridgeshire too: he came of age in 1436 and died in 1441 (*Cal. Close Rolls 1436-41*, p. 74; *Cal. Fine Rolls 1435-41*, p. 196). For Cheyne, Allington and Cotton see J. C. Wedgwood, *History of Parliament: Biographies* (1936), pp. 183, 8, 227-8. Cheyne was one of the richest commoners in the county in 1436, the Allingtons were, perhaps, the most powerful county family, with strong Lancastrian connections, and William Cotton of Landwade was a courtier and lawyer and probably already connected with the duchy of Lancaster administration (P.R.O., Exchequer, Lay Subsidy Rolls, E179/240/268; J. S.

truth of the complaints against the Ormond group made in the document printed below, Tiptoft and the sheriff, Gilbert Hore, were prepared to use their own position and authority to prevent the return of their opponents. The methods used—the departure of the sheriff from the court with the accusations of disturbance and the presence of unqualified men—parallel quite closely the behaviour of the under-sheriff of Suffolk in 1453 and of the sheriff of Norfolk in 1461.¹

Tiptoft was not, in the end, successful, for Allington and Cotton, two of Ormond's allies, were returned on 19 November, presumably by the new sheriff,² but the feud continued. On 20 January 1440, while the parliament was in session, Ormond was ordered under pain of a £2000 fine to appear on the following Tuesday before the king to answer charges that his servants had lately assaulted Lord Tiptoft's servants in Cambridge and that they were comforted and maintained by him. Tiptoft was also ordered to appear on the same day but without the threat of penalties.³ The charges brought by Tiptoft have not survived, but they can be deduced from a draft of the answers made by Ormond: these seem to have been drawn up as replies to a series of formal articles originally to be heard by the council, but alterations to the draft suggest that proceedings eventually became less formal and were perhaps handled by Cardinal Beaufort personally, involving, as they did, several of the great men of the kingdom, two of whom—Tiptoft and Bardolph—were members of the council.⁴ The charges apparently accused Ormond of interfering with Tiptoft's tenure of the Richmond estates, of sending his servants to lie in wait for and assault Tiptoft's men, and of supporting and comforting his followers after they made an affray in Cambridge against Tiptoft's servants. The answers made by Ormond to these 'inordinate compleyntes' of Lord Tiptoft need not be dealt with fully here as they do not directly concern the election. After referring to the dispute over the Richmond honour lands, Ormond is mainly concerned to rebut Tiptoft's allegations of assaults upon his servants, particularly during the recent affray in Cambridge, and to assert that the complaints are unspecific and only to his 'disclaundre'. If he showed all the wrongs done by Lord Tiptoft to other men of the shire, he writes, 'he sholde make to longe a boke'.⁵

Roskell, 'William Allington of Horseheath', *Proc. Cambridge Antiq. Soc.*, lii (1959), 30-42. Allington and Cheyne had each sat several times previously as knight of the shire and each had recently been sheriff.

¹See p. 95, n. 1. Little useful has been discovered about Gilbert Hore. He was of a Cambridgeshire family and had been knight for the county in 1437. By 1441 at least he was a squire of the king's household (P.R.O., Exchequer, Various Accounts, E101/409/9).

²Henry Langley accounts as sheriff from 5 Nov. 1439 (P.R.O., *Lists and Indexes IX*, p. 13).

³*Cal. Close Rolls 1436-41*, p. 304.

⁴Brit. Mus., Eg. Roll 8791: e.g. 'youre lordshipes' is deleted and replaced by 'yow' in the draft.

⁵It is worth noting that among the followers of Sir James Ormond involved in these incidents were Henry Fylongley, formerly a servant of Ormond's grandmother

The result of this dispute is not recorded but no serious harm seems to have been suffered by either man. Lord Bardolph died in January 1441 and later in the same year Ormond went with the duke of York to France.¹ In August 1441 Tiptoft secured confirmation of his grant of the Richmond lands, with a pardon for all arrears and for any disputes and quarrels pertaining to the earlier grant.² In 1443 he died, leaving a minor as his heir, and Ormond, when he returned to England, must have been for a time the leading man in the shire. In 1449 he and the son of his old rival were each granted an earldom. Although Ormond's interests seem to have switched mainly to his west-country estates, it is not impossible that this old local rivalry affected national politics in the following decade when Ormond, now earl of Wiltshire, was one of the leading supporters of Somerset and the court, while John Tiptoft, the young earl of Worcester, who was displaced by Wiltshire from his office of treasurer in 1455, became associated with the Yorkist faction.³

R. VIRGOE

*British Museum, Egerton Roll 8792*⁴

Lykyth it my Lord Cardynall to be informed of the reule that was atte the eleccion of the knyghtes of the shire atte Cambrigge.

First iij wekys continually be fore the said eleccion Laurence Cheyne, William Alyngton and William Cotton, with mony oder of Sir James Ormond hys men, rydden and sent abowtyn to the comunnes of the shyre of Cambrigge, charyngyng them to gyf her voyces atte the eleccion of the knyghtes of the shire to suche men as they wold have, manasyng theym yef they did the contrary to be bete and sleyn whare they myght be takyn.

Item the seid Sir James Ormond, Sir Robert Cromwell and the seid Cheyne, Alyngton and Cotton, with men harnessit in jakkys and salates the numbere of 1 persones, comen to Cambrigge on the evyn that the shire shuld be holdyn on the morne, takyng up all the innes in the stretes goyng to the castell ther as the shire shuld be holdyn for his men shuche as shuld come to hem.

Item the said Sir James, Sir Robert Cromwell, Cheyne, Alyngton and Cotton the same daye the shire shuld be holdyn be the morn atte vij on the belle went to the Castell with the seid meny arayed as it is aforsaid and ther maden a man of the

and later keeper of the Great Wardrobe, and William Tyrell, probably the elder of two brothers of that name and son of the recently deceased Sir John Tyrell, Speaker of the Commons in 1437, treasurer of the household and receiver-general to the duke of York (*Reg. of H. Chichele*, ii. 538; Wedgwood, *History of Parliament: Biographies*, pp. 325, 893; Roskell, *The Commons and their Speakers*, pp. 193, 215). Already Ormond had acquired a number of substantial gentlemen for his affinity.

¹P.R.O., E101/53/33; *Archaeologia*, xvii (1814), 214.

²*Cal. Pat. Rolls 1436-41*, p. 559.

³For Wiltshire's quarrels in the West see R. L. Storey, *The End of the House of Lancaster* (1966), pp. 88-92.

⁴On the dorset is written in a later hand, 'The Eleccion of Knightes of the parliament tempore H.6'. A minimum of punctuation has been added and the use of capitals standardized.

said Sir James porter atte the gate, be cause of the wheche governaunce ther durst bot fewe of the communes of the shire beyng atte that tyme in the toune of Cambrigge come atte said castell but suche as wer to the intent of the said Sir James and þes oder. And my Lord Typtoft, heryng and consevyng the comyngs and governaunce of the said Sir James and þe ferre and drede that the communes of the said shyre warre putte in, as justice of the pees of the said shyre of Cambrygge and supportyng and comfortyng the said Communes to make free eleccion came to the said towne of Cambrigge wythe power sufficiaunt to se the pees kepte, and was logid atte the Freres Austyns and ther abode all the tyme he was in the towne.

Item my lord Typtoft anone after hys comyng sent for the shirrefe and inquired of hym be cause of of [*sic*] the said Sir James and Sir Robert Cromwell beyng ther; and he answeyng seide it was for the eleccion of the knyghtes of the shire. And my said lorde, conceyng the beyng so of the said James Ormond, Cromwell and her men atte the said eleccion was noght lawfull and also that the said Sir James Ormond, Cromwell [*sic*] were no dwellers with in the said shire atte the date of the writte of the parlement and so noght abill to gefe her voyces atte the said eleccion, councellyd the shirrefe to goo and intrete the said Sir James and Cromwell for the cause aforesaid departe fro the said Castell and to suffer the said communes to make her fre eleccion, which forthewith the shirrefe labouryd and attemptid in as ease wise as he coude. And the said Sir James aunswerid and said with grete othes that he wold noght departe thens tille the said knyghtes of the shire ware chosyn.

Item the shirrefe, remembryng hym of the aunswere of the said Sir James, conceyng and seyeng the grete multitude of pepille to the numbir of m^lm^l within the Castell and withoute and mony of them harneysed mysreulyd and fulle of malesse, beyng in diverse oppynions of gefeng of her voyces, and also atte the instaunce and request of the grete partye of jentylnen of the same shire, semeng to hem that yef any eleccion warre had grete multitude of the kynges pepill were lyke to be pershed, went to the said Sir James and lete hym wete that he wolde noght ne durste noght take upon hym atte that tyme to procede to the eleccion for drede of man slaughter and persheng of the kynges pepill, and so wolde have departed. And that seyeng Sir Robert Cromwell starte to the shirrefe and seid he was false and in presence of all pepill offerd hym selfe to have foughte with hym in the qwarell, and so the shirrefe departid oute of the Castell, seyeng to them that he wold certefye the kyng of her governaunce and mysreule.

Item after that the shirrefe was so departid the seid Sir James and thes oder persones sent for the sherrefe agayn, willyng hym to se the eleccion that they wolde make; and ther withowte the kynges writte of them had sen' redde or red [*sic*] and a gayne the wille and the intent of the shirrefe, takyng upon hem the said shirrefs office, atte vj of the belle atte nyght whan the most partye of the communes war departid made her eleccion with the pepill that they brought with them and tho that war gaderid to them to the number of v hundred, wer of ther was not xl abille to gefe her voyce and all the remmenaunts gaderid of oder shires, chamberdekyngs and mennes servaunts of Cambregge, thresshers and all oder laborers, servautes and noghtymen of the shire, and so with in myght [*sic*] with grete shouteng proclamed hir eleccion withoute eny wryteng therof or setteng to of eny sele be them that wer elisoures.

The Probate Jurisdiction of Thomas Cromwell as Vicegerent

RECORDS OF ANY special court or courts through which Thomas Cromwell exercised his vicegerential power have almost eluded historians of the sixteenth century. Professor Elton has noted the existence of a vicegerential 'office' which issued various licences from September 1535 onwards. The evidence for this is a much later transcript of at least some of the licences, with a note that it was copied 'out of an old booke which I borrowed from Mr Saye whose father was Principall Register for Ecclesiastical Causes'.¹ Some of the licences relate to the restoration of a limited ecclesiastical jurisdiction to the church courts, following the temporary inhibition that had been imposed in September 1535 pending the royal visitation to assert the newly defined Supremacy. It is of particular significance that the probate jurisdiction restored to archdeacons was limited to estates valued at less than £100, though in October 1535 Cranmer was licensed to continue proving wills, 'iuxta consuetudinem curie prerogative Cant' without any limit to the value of estates being specified.² The explanation given for these relaxations of the inhibition was that Cromwell was otherwise engaged in matters of state and could not handle all ecclesiastical affairs committed to his charge.

Another part of the remedy for this preoccupation was the appointment of a deputy, and on 13 January 1536 Dr. William Petre was authorized, as Official Principal and commissary to Cromwell as vicegerent, to prove wills, grant administrations and hear testamentary causes, and to inhibit all lesser ecclesiastical jurisdictions from handling wills and administrations involving estates valued at over £200.³ Yet hardly any evidence of Petre's having implemented this authority had come to light until the recent discovery, during the sorting of sixteenth-century material from the Prerogative Court of Canterbury, of several citations ordering parties to appear before Cromwell's commissary. These citations, issued in the chancery style, beginning with the royal title, and passed under the seal for ecclesiastical causes, were clearly out of place among the records of the PCC unless they had been produced as exhibits, and for this there was no evidence. A search was therefore undertaken among the other known records of the PCC at this period for any further Cromwellian documents, and with important results.

The first surviving Act Book, covering the years 1536-40, and previously

¹G. R. Elton, *Policy and Police* (Cambridge, 1972), pp. 247-8. S. E. Lehmberg, 'Supremacy and Vicegerency: a re-examination', *Eng. Hist. Rev.*, lxxxi (1966), 225 *et seq.*, discusses the inhibition of church courts and the royal visitation. British Museum, Additional MS. 48022 fos. 83-96. See also p. 103, n. 3 below.

²Brit. Mus., Add. MS. 48022 fos. 83, 98. Cranmer's licence is also transcribed at the end of a Prerogative Court of Canterbury (PCC) will register (Public Record Office, Prob. 11/35).

³The fact, though not the substance, of the commission to Petre has been noted by Lehmberg, *ubi supra*, p. 231.

assumed to belong to the PCC, is clearly inscribed as being the record of proceedings before Petre as Cromwell's commissary.¹ Further, in the main series of will registers a volume labelled 'Crumwell', and long since noted as anomalous, since the PCC series continues uninterrupted at the same date, contains the wills proved and administrations granted by Petre in the same capacity.² The two volumes, though somewhat slimmer, are otherwise of identical format with the contemporary volumes in the PCC series, no doubt because Thomas Argall, notary public, was scribe of the Acts for both jurisdictions. Argall, and not William Saye, therefore seems to have kept the majority of the records of the court, and this explains their survival alongside the PCC material.³

Although Petre's jurisdiction is not referred to in these volumes as a 'court', there is no doubt that it was effectively a court meeting in many of the places traditionally used by the major ecclesiastical jurisdictions (PCC, Arches and the London Consistory Court), and sharing many of their officers, especially the proctors,⁴ and, in Petre's absence, the distinguished civilians from Doctors' Commons. No procedural difference is detectable between the sessions held by Petre and those held in the PCC, and therefore it seems appropriate to refer to the jurisdiction as a court for the rest of this analysis.

The Act Book opens with an explanation of Petre's position as Cromwell's commissary, noting that he has authority in all testamentary causes concerning estates valued at over £200, whether the property lies within one jurisdiction or several. In other words, the court withdrew some business both from the PCC and from episcopal and archidiaconal courts, which nevertheless continued to function normally for less valuable estates. The text of Petre's commission (also found in the will register with a pen portrait of Henry VIII) is then transcribed, and there follows a session-by-session account of the court's sittings, indicating the day and place of meetings, the judge before whom they were held, and details of the business transacted. The acts begin on 3 February 1536, in the middle of a legal term, but from Easter 1536 new termly headings are given, a practice also common in the church courts by this date.⁵ The date is usually given without reference to

¹Prob. 29/1. Crown copyright material used in this analysis is quoted by kind permission of the Controller of Her Majesty's Stationery Office.

²Prob. 11/26. See *Index of Wills proved in the Prerogative Court of Canterbury*, comp. J. C. C. Smith, i (1893), p. xx.

³Saye was regularly one of the notaries appearing in the church courts, and was certainly employed by Cromwell (e.g. *Letters and Papers, Henry VIII*, xii (1), Nos. 1232-3). At about this time he was also deputy registrar for the Delegates, and in 1554 became their registrar for ecclesiastical causes, a post in which he was succeeded by his son Robert (G. I. O. Duncan, *The High Court of Delegates* (Cambridge, 1971), pp. 296, 302). This is the explanation of the caption at the head of the transcript of licences, see above p. 102.

⁴This is clear from the appointments of proctors in the PCC, still under arrangement at the P.R.O., and from the subsequent PCC Act Book, Prob. 29/2.

⁵See, for example, Prob. 29/2 and *Handbook of Dates*, ed. C. R. Cheney (1945), pp. 73-4.

saints' days, whereas the church courts arranged their timetables and shared out their judges and proctors in a series of *dies juridici* based on saints' days. This is the first hint that Petre's court did not fit smoothly into the pattern of church courts. Until the Trinity term 1536, Petre was present at all main sessions of the court, but thereafter there was an increasing tendency to call on other lawyers to sit as his surrogate when he was engaged on other royal business (notably the visitation of the monasteries),¹ or when there was too much business for one judge to dispatch in a single day. The other civilians called on to assist from time to time were all distinguished lawyers in their own right: John Barber, Nicholas Wotton, Thomas Barrett, John Rokeby, Richard Lyell, Francis Cave, William Cooke, Thomas Bagard and Griffin Leyson.² All these men had experience in the church courts, and indeed most of them were regular practitioners borrowed from their own busy professional commitments to keep the vicegerential court in operation. Its presence cannot fail, therefore, to have been felt by the other church courts.

Few church courts at this period had a constant location for their sessions, but the impression derived from the Act Book is that Petre's court was more than usually peripatetic, though remaining within the city of London. This probably resulted from the necessity of finding premises not being used by the other courts. The first session was held in the White Hall of the Dominican Friars,³ but when Petre was present a more frequent meeting place was in his 'chamber in the hospice of the advocates of the Court of Canterbury' ('in camera sua infra hospitium advocatorum curie Cant'), and the court often met at Petre's home.⁴ St. Paul's cathedral was another regular venue, sometimes in the consistory court or at a spot 'sub Imagine crucis ad ostium boreale ecclesie cathedralis divi Pauli',⁵ though one session was held in the chapel of the Holy Spirit,⁶ and several entries do not specify

¹For an account of Petre's other pursuits see F. G. Emmison, *Tudor Secretary* (1961).

²Barber was one of Cranmer's chaplains and a judge in the PCC; Wotton had been a rising star under Wolsey and proctor for Anne Boleyn in 1536, destined to become first dean of Canterbury; Barrett, like Wotton, was one of the lawyers in Convocation setting forth the *Institution of a Christian Man* in 1537 (*Letters and Papers*, xii (2), No. 402); Rokeby rose to fame in the Court of Arches having entered Doctors' Commons in Feb. 1537; Lyell became an advocate in 1538, and in 1552 a canon of Wells; Cave was one of the commissioners for the surrender of the monasteries (e.g. *ibid.*, xiii (2), Nos. 207-8); Cooke was principal of the Civil Law School in 1537, and, under Edward VI, commissary of the PCC; Bagard was vicar-general of the diocese of Worcester, and Leyson, an advocate from 1534, became dean of Arches and a judge in the High Court of Admiralty. (Information from J. Foster, *Alumni Oxonienses* (1891), *D.N.B.* and *Letters and Papers*.)

³Prob. 29/1 fo. 2: 'in quadam superiore camera infra domum Fratrum predicatorum London' vulgariter nuncupata the White Hall'.

⁴Variously described, but usually 'in Edibus suis', further qualified from Oct. 1537 as being in Aldersgate Street. Compare the various locations of the court of Delegates (Duncan, pp. 201 ff.).

⁵First mentioned at Prob. 29/1 fo. 3v.

⁶13 Dec. 1536.

the exact location within the cathedral.¹ St. Mary le Bow, home of the Court of Arches, was also used.² In Petre's absence, his surrogates met in many of these places, and also used their own houses and those of their colleagues,³ whilst some purely routine business meetings of the court, for the appointment of proctors in causes, the settlement of expenses, and the like, were held in Argall's house, or in the lodgings of one of the other proctors, without the necessity of the commissary's presence.

Business transacted was not inconsiderable. During the legal terms there was hardly a day on which some item of business failed to engage Petre or his deputies, right up to May 1540. During the four years of the court's existence more than 300 wills were proved, and many related testamentary causes arising were heard. From the dates of probate recorded in the will register it is clear that sessions for the granting of probate were often held on days when no session for causes is recorded in the Act Book, though the register fails to specify where these probates were granted, save that some entries indicate probate 'apud London'. A few wills were proved and witnesses examined in the provinces, following the issue of a commission *in partibus* for each such instance, to save the parties the expense of travel to London, but if the record is complete, this was very much the exception rather than the rule. All save a dozen or so of the wills are said to have been proved 'coram Willelmo Petre' (or 'coram domino', an expression which seems to have been reserved for the commissary). The remainder were proved before his surrogates already mentioned above, or commissioners *in partibus*. For example, the will of Robert Skinner of Lincolnshire was proved before Robert Holgate, master of the Gilbertines, and John Broxholme, LL.B., on 4 May 1536,⁴ and that of Edward Courtelove of Bristol before the king's visitor general, John Tregonwell, LL.D., on 18 April 1538.⁵ The last recorded item of business in the Act Book, before it terminates abruptly on 14 May 1540, is the issue of another such commission to Robert Hindmer and the commissary of the bishop of Durham to hear a cause in St. Nicholas's, Newcastle upon Tyne, between 7 and 11 June following, and to report back to St. Paul's thereafter.

Such then was the probate jurisdiction of the vicegerent.⁶ Symbolically, the court took to itself the probate of the most highly valued estates, and

¹Two other specified locations were in the cloister (21 July 1539) and 'super fontem' (14 Feb. 1539).

²Particularly by Cooke in the autumn of 1538.

³Leyson was the only commissary to meet outside London, holding one session in the 'conventual Church of St Peter, Westminster' (28 June 1539).

⁴Prob. 11/26 sec. 2.

⁵*Ibid.* sec. 20.

⁶Only 2 of the 117 causes entered are non-testamentary, and these may have been heard because they required urgent attention from whatever court was sitting at the time. *Rolff v. Radcliffe* (fos. 24-7) was a matrimonial cause in which the bride had gone into hiding and a vital witness was about to go overseas. *The canons of Wingham College v. Bengier* (fo. 49) was promoted to deprive a canon of the post of seneschal of the college which he held contrary to the royal Injunctions.

thus removed some of the business of the lesser church courts, yet its functions were not significantly different from theirs, its personnel was largely borrowed from them, its records were even kept in the same format. It must be presumed that from the end of the court's existence in May 1540 full authority was restored to the church courts in matters of probate, and in all probability the PCC was entrusted with the records though no formal instrument to this effect has yet been noted. Petre's court was unnecessary except as a tangible manifestation of the royal supremacy, for the church courts handled probate perfectly adequately both before and after the court's existence. No successor was appointed to Cromwell as vicegerent, and the jurisdiction over the church was fully restored to its own courts.

C. J. KITCHING

*John Pym and the Queen's Receivership*¹

THE EARLY CAREER of John Pym has always been shrouded in mystery. It has been known that he held the office of receiver of Crown lands for Hampshire, Wiltshire and Gloucestershire, which he first exercised during 1607.² It was not known that this was not his only office in land administration: he was also appointed, on 24 August 1608, to the office of queen's receiver for the same counties. For this office he received the surprisingly large annual salary of £140 13s 4d³ and had extremely light duties. He had to collect the rents from seven manors, for which he was already collecting the rents as king's receiver, and pay the rents to the queen instead of the king. After Anne of Denmark's death, he continued to hold an extra receivership for these manors, first as receiver to Prince Charles, and then as receiver to Queen Henrietta Maria.⁴

Three points of particular interest arise from the grant of this office. The first is the remarkably high salary, not accompanied by any allowance for poundage. A number of other receiverships for the queen are recorded on the same roll, and all of them have the same high salary without poundage. The queen's receiver for Lincolnshire was paid a salary of £500, and the receiver for Kent, Surrey and Sussex £739. The post of queen's receiver was one which had not existed since the death of Katherine Parr, and it

¹The late Miss Evelyn Gore spent a lifetime working on John Pym, and left a very valuable unfinished draft for a projected biography of him. I am grateful to Mr. Paul Gore and to Mr. John Gore for their help in getting me access to this work, for allowing me to use it, and for allowing me to retain a copy of it. The discovery here recorded is Miss Gore's, and the responsibility for any errors in its presentation is mine. *Conrad Russell*.

²He began to exercise the office of king's receiver between 19 March and 22 Apr. 1607 (Public Record Office, L.R. 7/112; E178/3097).

³P.R.O., C 54/1967 m. 132.

⁴See P.R.O., L.R. 7/55 *passim*.

looks as if the absence of vested interests had created some scope for administrative reform. Lord Carew, president of the queen's council, or whoever else drew up the terms of these appointments, appears to have been interested in moving away from piecework payments towards putting administration on a proper salaried basis.

The second point concerns the comparative size of Pym's income from office and from land. He had a salary of £100 as king's receiver, together with poundage which probably averaged about £40 a year,¹ so his minimum income from office was £280. He occasionally gained extra poundage for paying in sums not part of his normal charge, such as the £133 6s 8d allowed him for poundage on the sum of £6,601 5s 10d paid in to the Crown from Sir Giles Mompesson's wood sales.² His total income from office almost certainly exceeded £300. The complete income from his Somerset property will probably now never be known, since a complete survey, rental and set of accounts, formerly in the possession of Miss Gore, seems to have disappeared after her death. Using this document, Miss Gore estimated that at the beginning of James I's reign Pym had a median annual income from land of between £400 and £500, inflated by occasional large entry fines such as one of £545.³ This coincides fairly closely with such estimates as can be made from surviving estate documents, and though the Somerset property yielded more later, it is doubtful whether, at this date, it yielded more than £500 a year at most. At this date, then, something between thirty-five and forty per cent of Pym's annual income probably came from office.

The third point concerns Pym's security when he entered bonds for his good behaviour in office. His security was his brother-in-law William Cholmeley of Highgate, Middlesex. He had been one of Pym's feoffees to uses in 1614, and was the man Pym used as an intermediary when negotiating with Cranfield for his release from imprisonment after the parliament of 1621.⁴ He was not an important or influential connection, and Pym's persistent use of him suggests a lack of more influential friends.

EVELYN GORE
CONRAD RUSSELL

¹For Pym's poundage, see P.R.O., L.R. 7/113-20.

²National Register of Archives, Sackville MS. ON 7847. I would like to thank Professor Roy Schreiber for this reference. The document is undated, though after 1617. Cranfield's reasons for allowing Pym a double rate of poundage can only be a matter for conjecture.

³C. J. Sawyer and Co., *Catalogue no. 155* (Jan. 1940), no. 159. I would like to thank Messrs. Sawyer for a great deal of help, and for permission to quote from their catalogue. This MS., if rediscovered, would clearly be the most valuable single source on Pym's early adult life. The payment of £545 to which Miss Gore referred is identifiable in Somerset Record Office, Pym MS. no. 122. The value of Pym's property should not be compared with valuation figures for other Somerset properties. The valuation figure for Pym's property which would have been produced at an inquisition *post mortem* was £100 6s 8d (Pym MSS. nos 139-146 (1614)).

⁴Somerset R.O., Pym MS. no. 146; Hist. MSS. Comm., 4th Rept., p. 305.

An Election to the Short Parliament

THE SUMMONING of the Short Parliament, according to Whitelocke, 'did set divers on labouring to get themselves to be chosen parliament-men, and the courtiers to get their friends chosen', and another observer saw 'a kind of cunning, underhand canvass... the greater part of the kingdom over'.¹ Recent work by Professor J. K. Gruenfelder has shown the importance of organized factions and of political principles in the elections to the Short Parliament and suggested that these contests marked a significant stage in the growth of political awareness in English constituencies.² A document discovered in the Salisbury Corporation Archives and printed below illustrates how in one borough this concern with national political issues arose out of local controversies. It also provides a rare and vivid description of one of the stormy election meetings of March 1640.³

Salisbury's disputed election to the Long Parliament in October 1640 is already well known. The corporation's choice of Robert Hyde, Recorder of the town and cousin of Clarendon, and of Michael Oldisworth, secretary to the earl of Pembroke, was challenged by the 'inhabitants' who elected two Puritan aldermen, John Ivie and John Dove. After some debate in the Commons, the choice of the corporation was confirmed, largely, thought D'Ewes, 'out of affection espetiallie for the sake of the Earle of Pembroke', although the opposition had been directed against Hyde.⁴ But this controversy had been foreshadowed in March. Both Hyde and Oldisworth were then returned by Salisbury to the Short Parliament, and on the day of their election, 30 March 1640, John Nicholas reported that 'some think they will leave out Mr Hyde the Recorder'.⁵ The account printed below describes the abortive attempt of some councillors to do this.

In normal times, Robert Hyde, as Recorder, would have been the obvious choice to represent the town: his predecessors in the office had regularly sat in parliament.⁶ It was his colleague, Michael Oldisworth, who was the

¹B. Whitelocke, *Memorials of the English Affairs* (Oxford, 1853), i. 93-4; M. F. Keeler, *The Long Parliament 1640-1* (Philadelphia, 1954), p. 9.

²J. K. Gruenfelder, 'The Election to the Short Parliament, 1640', in *Early Stuart Studies: Essays in Honor of D. H. Willson*, ed. H. S. Reinmuth (Minneapolis, 1970), pp. 180-230. Professor Gruenfelder does not refer to the Salisbury election which is discussed here.

³Salisbury Corporation Archives (SCA), I/253 fos. 20v-21r. The volume is entitled 'Searchers and Sealers of Leather'. For a short description of it see *Wiltshire Borough Records*, ed. M. G. Rathbone (Wilts. Archaeol. and Nat. Hist. Soc., Records Branch, v, 1949), p. 81, no. 158. I am indebted to the Town Clerk of Salisbury for permission to print this document and to consult the manuscripts in his care.

⁴*V.C.H. Wiltshire*, v. 136; R. Benson and H. Hatcher, *Old and New Sarum or Salisbury* (1843), pp. 390-1; *The Journal of Sir Simonds D'Ewes*, ed. W. Notestein (New Haven, 1923), pp. 98-9, 430-1.

⁵Public Record Office, S.P. 16/449/40.

⁶J. E. Neale, *The Elizabethan House of Commons* (1949), pp. 323, 324; W. A. Wheeler, *Members of Parliament for Salisbury* (Salisbury, 1883). Hyde was elected

outsider. He was nominated by Philip, earl of Pembroke, High Steward of Salisbury, and his only known contact with the town was in his capacity as Pembroke's secretary.¹ In an earlier election in 1626 the town council had in fact rejected the Pembroke nominee, claiming that their orders demanded they elect freemen. But in February 1640, perhaps because they felt the need of support at a time of political uncertainty, they repealed an order of 1625 that all Salisbury's M.P.s should be resident councillors—though only by a majority of 25 votes to 21—and elected Oldisworth a freeman of the town. One month later, he and Hyde were elected to parliament.² It may be significant that Hyde on his part had some contact with the other Wiltshire magnate, the earl of Hertford. Like the freeholders of the county in the same election, the cautious aldermen of Salisbury may on this occasion have deliberately chosen representatives of both noble connections in Wiltshire.³

Although Oldisworth was the obvious outsider, it was Hyde, the local man, whose election was opposed from within the council. In his case familiarity bred contempt. In Salisbury politics his allegiances were clear. He was the son of Sir Lawrence Hyde, leader of the gentry of the Close in their disputes with the town, and he had acted as legal counsel to the dean and chapter. In November 1640 he was accused of having advised the surrender of the Salisbury charter when the bishop and chapter, with the support of the privy council, were attempting to intrude again in the government of the town.⁴ At a time when, according to the mayor, 'men of great qualitie' in the town refused to pay ship money, and the collectors would 'not by any meanes venter upon them', Hyde strongly supported the levies. Although there was a strong Puritan element in the council, he 'did advize the schoolemaster in Salisbury to catechize the schollers without expounding it', criticized the Friday lectures, and was alleged to have said that 'poor mens children ought not to be educated in learning'.⁵ A more vivid contrast with his radical Puritan predecessor, Henry Sherfield,

Recorder in 1635 (SCA Ledger C fo. 391). There is an account of his career in *D.N.B.*

¹ SCA Ledger C fo. 417v; I/253 fo. 14. On Oldisworth's career see V. A. Rowe, 'The influence of the earls of Pembroke on parliamentary elections 1625-41', *Eng. Hist. Rev.*, 1 (1935), 243 ff. and *D.N.B.*

² SCA N101, letter to Pembroke, 16 Jan. 1626; Ledger C fo. 416; Benson and Hatcher, pp. 348-9. There had been a similar reluctant accession to a Herbert's wishes in 1572 (Hist. MSS. Comm., *Various Collections*, iv. 226). Thomas Gardener, appointed town clerk in 1638, was also a Herbert nominee (Benson and Hatcher, p. 384).

³ *Cal. S.P. Dom.* 1638-9, p. 186. The Seymour and Herbert families each provided an M.P. for the county in March (*V.C.H. Wiltshire*, v. 135).

⁴ *V.C.H. Wiltshire*, vi. 118; Salisbury Dean and Chapter Archives, Act Book 17, p. 154; Benson and Hatcher, pp. 390-1; P.R.O., P.C. 2/46 p. 246, P.C. 2/47 p. 404.

⁵ P.R.O., S.P. 16/448/63; *Journal of D'Ewes*, pp. 98-9. In 1632 the council had ordered that 'all poor men and women not rated in payment towards the relief of the poor shall have their sons put to school and freely taught there' (SCA, Ledger C fos. 372v-373). Hyde had apparently sympathized with the schoolmaster's complaint that 'he was troubled with 20 poore children'.

Recorder in the sixteen-twenties, could scarcely be imagined. His actions during the Long Parliament were of a piece. He voted against Strafford's attainder and was finally expelled from the house of commons for royalism in 1642.¹

Hyde's two outspoken opponents within the council in March 1640 were clearly identified with the Puritan party in the town. Maurice Aylerugg had entered the council as an Assistant in 1623. In the same year Henry Sherfield was elected Recorder and John Ivie became an alderman. Both were Puritans and Aylerugg belonged to their faction which reorganized poor relief in Salisbury in this year, and showed particular concern about the problem of poor children.² Richard Phelps became an Assistant in 1635, and was a younger member of the same group. In the sixteen-thirties he and his wife were presented before the court of the subdean of Salisbury for 'forsakeing their owne church', St. Thomas's, to hear the Puritan sermons of Peter Thatcher at St. Edmund's, and in 1649 Phelps proposed to the council the inauguration of a new weekly lecture.³ In March 1641, two weeks after the Long Parliament confirmed Hyde's election, he was restored to the council 'uppon the motion and request of Robert Hyde... for the settlinge of a future peace and amitie in this Corporation'. But civil war disrupted the amity, and while Hyde was dismissed from his place as Recorder in 1646, Phelps rose with the Presbyterian party to become alderman in 1647 and mayor in 1654.⁴

The disputes in Salisbury in 1640, therefore, had their roots in local political and religious divisions. But the national political crisis of that year brought these divisions into the open, and quickly widened the split within the council. In March this rift was not yet as great as it was to become by October. Of the aldermen listed as present at the meeting in August, recorded below, three, John Ivie, John Dove and Humphrey Ditton, later joined with Phelps and other councillors in petitioning parliament against the October election; the first two were the M.P.s elected by the 'inhabitants' on that occasion, and Dove was chosen to replace Hyde as Recruiter M.P. in 1645.⁵ These men did not voice such open opposition to the March

¹ Keeler, pp. 228-9. There is a short account of Sherfield's career in *D.N.B.* Oldisworth continued as M.P. for Salisbury until the end of the Long Parliament.

² SCA Ledger C fos. 293v, 295, 298. Aylerugg was churchwarden of St. Edmund's parish and Phelps overseer of the poor of St. Thomas's in 1626 when new orders were issued for poor relief: SCA 'Orders touchinge the poor', in a bundle of miscellaneous documents as yet unlisted.

³ SCA Ledger C fo. 391v; Salisbury Diocesan Archives, Subdean's Court, Churchwardens' Presentments: St. Edmund's c. 1630, St. Thomas's 25 May 1637; SCA Ledger D fo. 164.

⁴ SCA I/253 fo. 21v; Ledger D fos. 31, 84.

⁵ Benson and Hatcher, p. 391; SCA Ledger D fo. 17v. On John Dove's later career see G. Yule, *The Independents in the English Civil War* (Cambridge, 1958), pp. 63, 95. In addition James Abbott was a noted Puritan. Together with Ivie, Dove and Phelps, he was included among the aldermen in the Commonwealth Charter ('The Salisbury Commonwealth Charter', *Camden Miscellany XI* (Camden 3rd ser., xiii, 1907), p. 175).

election, although they must have sympathized with the views of Phelps and Aylerugg and it is notable that they did not actually sign the order for their expulsion printed below. Of those who did sign, apart from Hyde himself, three at least—Bee, Greene and Lawes—were to show royalist or 'neutralist' sympathies in the Civil War. Another three aldermen, present but not signing,—two of the Hancocks and John Batt—seem later to have shared their opinions.¹ But there is no evidence that in the summer of 1640 these opinions or groups had yet hardened. As in other constituencies it was the very fact of two elections in one year which helped to bring matters to a head. By the time the Long Parliament met, this order against Phelps and Aylerugg was one more grievance held against Hyde: his 'injustice in his place as Recorder off that Towne, against many of the cheife Burgesses and others that had opposed his election the last parliament'.²

Significantly, it was only in the second election that the issue of the franchise was raised against Hyde and Oldisworth. The small number of radicals within the council then shattered the façade of unity which had been threatened in March, but reaffirmed in August, and appealed outside the oligarchy to the freemen of the town. They did so as a last resort in wholly exceptional circumstances. Once in control themselves, they returned to the corporation franchise. In 1654 they voted that the election was to be held in the customary way, and although there was apparently some slight increase in the electorate in 1656 when the Presbyterian party was overthrown, in 1659 the narrow franchise was again confirmed.³

This account of the election to the Short Parliament is important therefore in showing the development of radical feeling in Salisbury in 1640 from individual animus against Hyde in March into a concerted attempt in October on the part of a committed minority within the council to prevent his return by widening the franchise. Of more general interest, however, is the striking evidence it provides of the airing of broad issues of 'Religion' and 'Common wealth' in this election, and of the knowledge of events in other boroughs. London had indeed rejected its Recorder, Sir Thomas Gardiner, the king's intended Speaker, and this evidence suggests that

¹These 6 were among the Salisbury representatives of the Clubmen (*House of Lords Journals*, vii. 485). Some of the Wiltshire Clubmen appear to have been royalist in sympathy, and one member of the Hyde family was associated with them (B. S. Manning, 'Neutrals and Neutralism in the English Civil War 1642-6' (unpublished Oxford D.Phil. thesis, 1957), pp. 449, 453). Thomas Lawes was imprisoned by the house of commons in 1642 for publishing the king's commission of array (Benson and Hatcher, p. 392).

²*Journal of D'Ewes*, p. 545. For growing tension in Kent in the period between the two elections see A. M. Everitt, *The Community of Kent and the Great Rebellion, 1640-60* (Leicester, 1966), p. 75.

³Hist. MSS. Comm., *Various Collections*, iv. 241, 242; *V.C.H. Wiltshire*, v. 155, 156. In 1689 when another attempt was made to broaden the franchise, the house of commons was able to call on eye-witnesses of the Long Parliament election to support their rejection of it (*House of Commons Journals*, x. 71). For the latest discussion of the franchise in the 17th century see J. H. Plumb, 'The growth of the electorate in England from 1600 to 1715', *Past and Present*, xlv (1969), 90-116.

Exeter had done the same; both significantly had larger electorates than Salisbury.¹ Abingdon and Oxford also turned down their Recorders; Gloucester probably did so too.² Their example was not lost on the radical minority in the Salisbury council, who could cite these precedents as well as appeal to principle.

Like other provincial communities, the Salisbury council was generally 'sub-political', preoccupied with local affairs, both before and after 1640.³ But in that year there was an attempt to subsume local issues in national ones: the threat to 'religion' and 'liberties' in Salisbury implicit in Hyde's connection with the local ecclesiastical establishment was easily interpreted in broader terms. The radicals in the council in March 1640 felt themselves part of a wider struggle and of a wider political nation.

P. A. SLACK

*Salisbury Corporation Archives I/253 fos. 200-211.*⁴

[fo. 200] Civitas Nove Sarum⁵

An assembly of the Mayor Recorder & Aldermen⁶ in the Councell howse, the 26th of August in the 16th yeare of the Reigne of our Sovereigne Lord Kinge Charles of England &c.,⁷ there beinge then present:

¹V. Pearl, *London and the Outbreak of the Puritan Revolution* (Oxford, 1961), p. 112; E. Hyde, earl of Clarendon, *History of the Rebellion*, ed. W. D. Macray (1888), i. 218-20. Exeter returned two of its aldermen (J. J. Alexander, 'Exeter members of parliament Part III', *Report and Trans. of the Devonshire Assoc.*, lxi (1929), 203). Unfortunately there is no entry of the election in the Exeter council Act Book to indicate whether the Recorder, Sir Peter Ball, attorney-general to the queen, was in fact a candidate. The return for London was dated 2 March, and the Exeter election took place on 17 March, leaving ample time for the news to reach Salisbury by 30 March.

²Keeler, pp. 34, 352; *Oxford Council Acts 1626-65*, ed. M. G. Hobson and H. E. Salter (Oxford Hist. Soc., xcv, 1933), p. 91; *Cal. S. P. Dom. 1639-40*, pp. 582-3. It is not clear what issues were involved in these elections: Whitelocke and Lenthall, Recorders of Abingdon and Gloucester respectively, scarcely proved themselves royalists. But the majority of Recorders in the Long Parliament were royalists (D. Brunton and D. H. Pennington, *Members of the Long Parliament* (1954), p. 5).

³The term is used by Roger Howell to describe another urban community (R. Howell, *Newcastle upon Tyne and the Puritan Revolution* (Oxford, 1967), p. 336).

⁴The original spelling of the document has been retained, except that all abbreviations have been extended. Paragraphs have been introduced and punctuation and capitalization modernized where necessary to make the sense clear.

⁵In the margin.

⁶Three of the 21 aldermen are missing from those listed as present below: Aylerugg himself, Thomas Ray and Nicholas Elliott. Prior to 1630 the whole council, including the 48 assistants, had to be consulted on the removal of its members (SCA Ledger C fos. 299, 309, 326v). But the charter of 1630, at the request of the council itself, provided that the mayor, Recorder and aldermen should alone exercise this disciplinary function (Benson and Hatcher, p. 788; P.R.O., S.P. 16/162/71). This probably explains why this minute was entered in a miscellaneous volume devoted largely to the business of the justices of the peace, rather than in the council ledger.

⁷I.e. 1640.

William Joyce, Mayor	
Robert Hyde, Serjant at law, Recorder	Mr Anthony Brickett
Mr Mathewe Bee	Mr Thomas Hancocke, junior
Mr Thomas Hancocke, senior	Mr John Dove
Mr Henry Pearson	Mr Richard Carter
Mr Morris Greene, senior	Mr John Banger
Mr Richard Checkford	Mr Emanuel Gauntlett
Mr John Ivy	Mr Thomas Lawes
Mr James Abbott	Mr Humfrie Ditton
Mr John Batt	Mr Thomas Hancocke, medius

At this assembly the severall misdemeanors committed openly in the Councill howse at an assembly of the Mayor, Recorder, Aldermen & assistants by Mr Maurice Aylerugg one of the Aldermen of this Citty and Mr Richard Phelps one of the assistants of the same Citty, [on] the 30th day of March last past¹ at the Election of Cittizens for this Citty to serve in the late Parliament then to be assembled, in disturbance of the sayd election, and the abuses then offered by them unto Robert Hyde (then Esq. since Serjant at lawe) Recorder of the sayd Citty, were at lardge heard & examined. And uppon examinacion the truth did appeare to be thus.

The Sheriffs warrant for election beinge reade & the Recorder signifyinge his willingnes to serve in Parliament for the Citty if they pleased to make choyce of him, [the] desired the Mayor & Councill to proceede to the election. The sayd Mr Aylerugg then in the open Publicke Councill openly said: That theire religion & liberties were at stake, & that it would concerne them to choose such men as were well affected in Religion & towards the Common wealth. Therefore if there were any amongst them who had declared himselfe an enemy to the traineing up of youth in learneinge, such a man was not fitt to be putt in election or to serve in Parliament. So if any man amongst them had declared himselfe an enemy to the preachinge of the word of God, that man was not fitt to be putt in election.

Unto which the sayd Richard Phelps with some others sayinge that if there were any such person amongst them, it were fitt he were knowne, Mr Aylerugg sayd: Yes, there is such amongst us; Mr Recorder is the man. Whereto the Recorder sayd: You have charged me very farr, & twill concerne you to make it good or otherwise I may not putt it upp at your hands. Unto which the sayd Mr Aylerugg replied: Is it not true? Cann you deny it? I will justifie it. And the sayd Richard Phelps sayd: Nay, tis true.

Then the sayd Mr Aylerugg proceeded & sayd: Wee all knowe how heavy the Shippmony lies uppon us, and what a greivance it is to the whole Kingdome. Yet Mr Recorder hath therein declared himselfe so farr that he hath adjudged the case farther [than] the Judges have done, for they onely have judged that the King may send out writts to leavy mony for the provideing of Shippes. But the Recorder hath judged it that an executor is chargeable to pay the some taxed on his testator.² And therefore for these causes, I holde the Recorder a man not fitt to be

¹The mere fact of the election of Hyde and Oldisworth on 30 March is recorded in the council ledger (SCA Ledger C fo. 416). There is no indication of the identity of any other candidates.

²All the charges made here against Hyde were repeated in greater detail in the house of commons in Dec. 1640 (*Journal of D'Ewes*, pp. 98, 99). It was then alleged

named or putt in election. The Recorder thereuppon pressinge the sayd Mr Aylerugg to make prooffe of what he had spoken, the sayd Mr Alerugg mencioned some particulers in justificacion of his words but did not instance in any thinge which proved what he had spoken.

After which the Mayor & Company proceeded to the election by the Pole, & the sayd Richard Phelps haveinge given his [*fo. 21r*] voyces, & whilst others were giveinge theires, the sayd Richard Phelps in a very uncivill manner stood upp & sayd: That it was no newes to have the Recorder of a towne rejected, for the Recorder of London was refused, & so was the Recorder of Excester, & divers others, & he knewe no cause why theire Recorder should not be refused likewise. And [he] sayd the reason was because that Recorders were ryseinge men & must serve the tymes.

Wich speeches & behavior of the sayd Mr Aylerugg & Mr Phelps, the sayd Mayor Recorder & Aldermen doe conceive to be very greate offences contrary to the duties of theire places, for that thereby the sayd Election was much disturbed, the whole assembly greatly disquieted, and the sayd Recorder in the open Councell falsely & slanderously abused. For which theire sayd misdemeanors & offences, it is thought fitt & ordered by the sayd Mayor Recorder & Aldermen whose names are underwritten, That the sayd Mr Maurice Aylerugg & Richard Phelps shalbe, & hereby they ar, severally amoved & suspended of & from their severall places in this Company or Corporacion, namely the sayd Mr Aylerugg from the place or office of an Alderman, and the sayd Richard Phelps from the place or office of an assistant of this Citty, untill they shall severally make open acknowledgment of & submission for theire sayd misdemeanors, & shall likewise acknowledge the offence & scandall by them offered & done unto the sayd Recorder Publickly at a Common Councell, & untill farther order be thereuppon taken for theire restitutions as shalbe meete.¹

[*Signed*]

William Joyce, maior
Robert Hyde
Mathew Bee
Morris Greene

James Abbott
John Banger
Emanuel Gauntlett
Thomas Lawes²

that a letter of 1635 showed Hyde's exceptional support for ship money. I have been unable to trace this document.

¹Phelps was restored to his place on 19 March 1641 (SCA I/253 fo. 21v). There is no sign that he acknowledged his offence. Aylerugg was not restored but he may have died before this date (*Churchwardens' Accounts of St. Edmund and St. Thomas, Sarum*, ed. H. J. F. Swayne (Salisbury, 1896), p. 211).

²Only 8 of the 18 aldermen said to be present at the beginning of the entry actually signed the order. Others may have left the meeting early or abstained. It is possible that they were not present at all, that their names were listed as a mere formality, although the absence of two of the aldermen, Ray and Elliott, from both lists suggests the contrary. In either case it is significant that, apart from James Abbott, those aldermen known to have had Puritan sympathies did not sign the order.

The Grey-Cambon Exchange of 22 November 1912: a Note on the Documents

THE GREY-CAMBON exchange of letters of 22 and 23 November 1912 marked a significant development in the Anglo-French Entente. Conversations for naval co-operation between the British and French fleets had been held towards the end of 1908 and were taken further in September 1911 and July 1912. Grey was satisfied with the result; there existed detailed plans for the strategic co-operation of the two fleets in the event of any decision by Britain to be involved in a conflict as an ally of France, but complete political freedom to formulate such a decision by the cabinet. Grey thought this quite sufficient; security if involved in a conflict but freedom to decide at the outset whether to involve Britain. Poincaré thought otherwise, and insisted that there should be a political exchange of letters formally acknowledging the existence of the strategic plans, and a declaration by the two Powers to consult immediately on any threat to their interests by an attack by a third Power.

On 19 September 1912 Cambon submitted a formula to Grey:

Dans le cas où l'un ou l'autre des deux Gouvernements aurait des raisons d'appréhender un acte d'agression de la part d'une tierce Puissance ou des complications menaçantes pour la paix, ils se livreraient ensemble à une discussion sur la situation et rechercheraient les moyens d'assurer de concert le maintien de la paix et d'écarter toute tentative d'agression.¹

Grey maintained that this consultation would take place under the existing conditions if either Britain or France had reason to fear attack by a third Power. Cambon agreed that this was so in fact but that there was no written understanding. At the same time, he submitted a second formula for the exchange:

Préambule.

Dans le cas où la défense de leurs intérêts déterminerait la France et la Grande Bretagne à associer leurs forces navales, les dispositions suivantes sont convenues entre:

d'une part l'Amirauté Française qui aura réuni dans la Méditerranée la presque totalité de sa flotte de ligne, laissant son littoral de la Manche et de l'Atlantique sous la protection d'une escadre de croiseurs-cuirassés et de ses flotilles de contre-torpilleurs et de sous-marins;

d'autre part l'Amirauté Anglaise, qui aura concentré sa flotte de ligne dans les eaux métropolitaines, laissant dans la Méditerranée une force importante de croiseurs de bataille et de bâtiments torpilleurs.

Le Gouvernement de la République et le Gouvernement de Sa Majesté Britannique, prévoyant le cas où l'un d'eux aurait un motif grave d'appréhender soit l'agression d'une tierce Puissance soit quelque événement menaçant pour la

¹Grey to Sir Francis Bertie, 19 Sept. 1912 (F.O.371/17/Vol.1368/40010/31295).

paix Générale, conviennent qu'ils délibéreront immédiatement sur les moyens d'agir en commun à l'effet de prévenir l'agression et de sauvegarder la paix.¹

Grey agreed to consider the words and to discuss them with Asquith, and the papers were circulated to the cabinet. On 16 October 1912, Grey informed Sir Francis Bertie in Paris of further conversations with Cambon. In reply to Grey's concern at a formal exchange of notes which would have to be published, thus producing a 'very exciting effect in Europe', Cambon urged that the exchange should be made by letters between Grey and himself. He acknowledged that all that his formulas required from Britain existed already in fact, but he thought 'that something ought to be on record, as French Governments changed so frequently'.² This was cloaking the real intention of Poincaré who argued that the object of the Entente was that the two Powers should stand together not for aggression but for the maintenance of each other and defence against attack, unprovoked attack, and the balance of power; 'If the Entente does not mean that England will come to the aid of France in the event of Germany attacking the French ports its value to France is not great' said Poincaré to Bertie.³

The majority in the cabinet were not disposed to make a declaration like that sought by Cambon and Poincaré; the 'formula' did not appear to them to be satisfactory 'its language being vague and open to a variety of constructions',⁴ but on 30 October 1912, Grey had presented a draft letter which he gave to Cambon for his consideration:

From time to time in recent years the French and British naval and military experts have consulted together. It has always been understood that such consultation does not restrict the freedom of either Government to decide at any future time whether or not to assist the other by armed force. We have agreed that consultation between experts is not and ought not to be regarded as an engagement that commits either Government to action in a contingency that has not arisen and may never arise. The disposition, for instance, of the French and British fleets respectively at the present moment is not based upon an engagement to co-operate in war.

You have, however, pointed out that if either Government had grave reason to expect an unprovoked attack by a third Power, it might become essential to know whether it could in that event depend upon the armed assistance of the other.

I agreed that, if either Government had grave reason to expect an unprovoked attack by a third Power or something that threatened the general peace, it should immediately discuss with the other whether both Governments should act together to prevent aggression and to preserve peace, and, if so, what measures they would be prepared to take in common.⁵

¹Grey to Sir Francis Bertie, 19 Sept. 1912 (F.O.371/17/Vol.1368/40010/31295).

²Grey to Bertie, 16 Oct. 1912 (*ibid.*, further enclosure).

³Bertie to Grey, 30 July 1912 (F.O.800/53).

⁴Asquith to the king, 1 Nov. 1912 (CAB.41/33/66). Reference to cabinet letters is by gracious permission of H.M. The Queen.

⁵Grey to Bertie, 30 Oct. 1912 (F.O.371/17/Vol.1368/46305/31295).

Cambon made no adverse comment on the draft. He was assured by Grey that the cabinet was aware of its terms, and he accepted the draft for consideration.

By 7 November, Poincaré was ready to accept the letter but asked for the additional words at the end of it 'si ces mesures comportaient une action les ententes de nos Etats-Majors produiraient leur effet'.¹

Grey was concerned that the words suggested by Cambon would bind the two governments, if they decided to co-operate, to carry out plans made by the General Staffs. But, he explained to Bertie, the plans drawn up at one time might be impracticable or undesirable if an emergency arose two or three years ahead under conditions which could not be foreseen. He thought that the words of the letters should leave it open to the government, even if they decided to co-operate, to reconsider plans previously made by the General Staff. Grey, after discussion with the cabinet, therefore suggested the following final paragraph to Cambon: 'If these measures involved action, the plans of the General Staff would at once be taken into consideration, and the Governments would then decide what effect should be given to them'.² Cambon accepted the words, and he and Grey agreed to exchange letters on the basis of the draft letter of 30 October with the additional paragraph. This letter was formally communicated to Cambon by Grey on 22 November 1912. Cambon replied on 23 November:

Cher Sir Edward,

Par votre lettre en date d'hier 22 Novembre, vous m'avez rappelé que, dans ces dernières années, les autorités militaires et navales de la France et de la Grande-Bretagne s'étaient consultées de temps en temps; qu'il avait toujours été entendu que ces consultations ne restreignaient pas la liberté, pour chaque Gouvernement, de décider dans l'avenir s'ils se prêteraient l'un l'autre le concours de leurs forces armées; que, de part et d'autre, ces consultations entre spécialistes n'étaient et ne devaient pas être considérées comme des engagements obligeant nos Gouvernements à agir dans certains cas; que cependant je vous avais fait observer que, si l'un ou l'autre des deux Gouvernements avait de graves raisons d'appréhender une attaque non provoquée de la part d'une tierce Puissance, il deviendrait essentiel de savoir s'il pourrait compter sur l'assistance armée de l'autre.

Votre lettre répond à cette observation et je suis autorisé à vous déclarer que, dans le cas où l'un de nos deux Gouvernements aurait un motif grave d'appréhender soit l'agression d'une tierce puissance, soit quelque événement menaçant pour la paix générale, son Gouvernement examinerait immédiatement avec l'autre si les deux Gouvernements doivent agir de concert en vue de prévenir l'agression ou de sauvegarder la paix. Dans ce cas, les deux Gouvernements délibéreraient sur les mesures qu'ils seraient disposés à prendre en commun; si ces mesures comportaient une action, les deux Gouvernements prendraient aussitôt en considération les plans de leurs états majors et décideraient alors de la suite qui devrait être donnée à ces plans.³

¹ Grey to Bertie, 7 Nov. 1912 (F.O.371/17/Vol.1368/48055/31295).

² Grey to Bertie, 21 Nov. 1912 (F.O.371/17/Vol.1368/49808/31295).

³ Cambon to Grey, 23 Nov. 1912 (F.O.371/17/Vol.1368/50207/31295).

The French government observed that there was no commitment to an alliance, but they had secured the political recognition of the plans for strategic co-operation of the French and British fleets in the event of both governments being involved in war, and the commitment to consult if either Power had reason to apprehend an unprovoked attack by a third Power. Poincaré undoubtedly had secured the most that the cabinet was prepared to negotiate, and to him the exchange of letters represented a measurable consolidation of Anglo-French relations. The cabinet, and Grey in particular, had not involved Britain in a formal alliance, but in acceding to Poincaré's request for an exchange of letters, they must have realized that the Entente would be seen by Poincaré to have been strengthened. Certainly, from 1912 to 1914, the French government assumed the security of the French Channel coast, and it is highly improbable that the British fleet there could have remained long strategically uninvolved in the event of an attack on the French Channel coast by the German North Sea fleet.

HILDA I. LEE

Historical News

THE INSTITUTE of Historical Research has now undertaken the series *Writings on British History* formerly published by Jonathan Cape for the Royal Historical Society. The volumes are designed to provide a comprehensive list of writings about British history in a given year. Books and articles, wherever published, relating to the history of Great Britain from about A.D. 450 to 1914 are exhaustively noted and an appendix contains a list of publications on British history since 1914. D. J. Munro has prepared a volume covering publications of the years 1946-48 which was published by the Institute early this year. Further volumes are in preparation.

Officials of the Secretaries of State 1660-1782 by J. C. Sainty, the second volume in a new series which is now in the course of preparation at the Institute, was published in January. The immediate purpose of the series is to provide lists of the officials who served in the departments of central government between the Restoration and 1870. Each volume will contain a short introduction discussing the development of the department with which it is concerned and notes explaining the various offices and grades within it as well as lists of appointments and an alphabetical list giving details of the periods of each official. Work on the third volume, *Officials of the Boards of Trade 1660-1870*, is approaching completion. Other departments to which early attention will be directed will include the Admiralty, the Exchequer and the Privy Council.

* * * * *

At the suggestion of Dr. J. A. Cannon it is planned to include in the May 1974 number of the *Bulletin* a list of parliamentary election contests within the years 1715-1790 additional or supplementary to the contests given in the History of Parliament volumes *The House of Commons 1715-1754* and *The House of Commons 1754-1790*. Contributions to this list are invited and should be addressed to the Editor of the *Bulletin*. Wherever possible, the information should include the date of the election, the name of the constituency, the names of candidates, the numbers of votes cast or accepted, and the source.

Historical Manuscripts

A. ACCESSIONS

THE BRITISH MUSEUM

Department of Manuscripts

Historical MSS.¹ incorporated into the collections during 1972 include:

Notification of confirmation of grants to Weedon Pinkney priory, Northants, 1148-68 (Add. Ch. 75761).

Medieval MSS. from the collection of Francis Wormald, C.B.E. (d. 1972) including a 14th cent. Italian *Genealogia Deorum*, with coloured and pen drawings of classical deities and heroes, popes, kings and emperors; Dionysius Pseudo-Areopagita, *Hierarchia*, the Latin translation by Robert Grosseteste with the medieval press mark of Waltham abbey c. 1260-70; and a 13th cent. English MS. of Ailred of Rievaulx, *Vita S. Edwardi*, Geoffrey, abbot of Barton, *Vita S. Modwenne*, etc. (Add. MSS. 57528-57534).

Maps of the Sussex coast drawn up as part of the defence measures against the Spanish Armada, 1587 (Add. MS. 57494).

Maps of military engagements, camps, fortifications, etc., in places throughout the world from the collection of the Royal United Service Institution, 17th-19th cent. (Add. MSS. 57636-57722).

Sir Walter Raleigh: commonplace book, containing geographical notes, for his *History of the World*, annotated maps, two lists of his library in the Tower of London, etc. (Add. MS. 57555).

Joseph Ames, Commonwealth naval commander: letters written as master of *The Return*, 1663-74 (Add. MS. 57491).

Nicholas Vansittart, 1st Baron Bexley: 80 letters to the comte d'Antraigues, 1807-12 (Add. MS. 57537).

Lieut.-Gen. Sir John Moore: correspondence and letter-books, 1808-9, supplementing Add. MSS. 57320-57332 (Add. MSS. 57539-57554).

R. D. Blackmore (1825-1900), novelist: diary for the year 1855 (Add. MS. 57771).

Sir Henry Ellis, K.H. (d. 1869): note-books and papers (Add. MSS. 57521-57522, 57557-57558).

Lieut. Dudley Stafford Northcote: papers relating to his work in Mesopotamia and Armenia as Relief Officer for the Armenian Refugees (Lord Mayor's) Fund, 1918-26 (Add. MSS. 57559-57561).

ANN PAYNE

¹The inclusion of an MS. in this list does not necessarily imply that it is available for study. Complete lists of the Department's acquisitions are published twice a year in the *British Museum Quarterly*.

PUBLIC RECORD OFFICE

For a summary of records transmitted during 1971 see *13th Annual Report of the Keeper of Records on the Work of the Public Record Office . . . 1971* (1972).

SCOTTISH RECORD OFFICE

Annual Report of the Keeper of Records of Scotland for 1971 (1972).

COPYRIGHT LIBRARIES

Bodleian Library: *Report of the Curators, 1970-1* (1972).

National Library of Wales: *Annual Report, 1971-2* (1972).

COUNTY COUNCIL RECORD OFFICES AND
OTHER INSTITUTIONS

A detailed list of historical manuscripts recently acquired by local and other repositories will be found in Historical Manuscripts Commission, National Register of Archives, *List of Accessions to Repositories in 1971* (London, H.M.S.O., 1972).

B. MIGRATIONS

[The following is a select list of historical MSS. recently offered for sale by booksellers and auctioneers. Attention may particularly be drawn to *Bibliotheca Philippica, Medieval Manuscripts*: new ser., pt. 7 (Sotheby & Co., 21. xi. 1972). References to booksellers' catalogues are by name, number of catalogue, page and number, to auctioneers' catalogues by name, date of first day of sale, and number of lot.]

Miscellaneous Documents.**English before 1603.**

Edw. III: letters patent granting Walter Power a licence to assign rents for the support of the chaplain of St. James in Tilne, Westminster, 2 Apr. 1371. (Sotheby & Co., 10. vii. 1972, no. 23.)

Roll chronicle of the kings of England, including the pedigree of the Botelers of Sudeley Castle, 1448-9. (Sotheby & Co., 21. xi. 1972, no. 556.)

English after 1603.

Churchill, John, 1st duke of Marlborough: 16 letters to Lord Coningsby, 1704-14. (Sotheby & Co., 26. vi. 1972, no. 313.)

Churchill, Sarah, 1st duchess of Marlborough: 27 letters to Lord Con-

ingsby, 1709-20. (Sotheby & Co., 26. vi. 1972, no. 314.)

Donald, David: notebook with descriptions of machinery seen in France, the Netherlands and Belgium, [c. 1728]. (Sotheby & Co., 27. xi. 1972, no. 284.)

Jervis, John, 1st earl of St. Vincent: 113 letters to Sir Evan Nepean, mostly written on active service, 1793-1801. (Sotheby & Co., 26. vi. 1972, no. 316.)

15 casualty lists of the naval action off San Domingo, 6 Feb. 1806. (Sotheby & Co., 23. x. 1972, no. 414.)

Place, Francis: annotated copy of proceedings against Queen Caroline, [1820]. (Sotheby & Co., 27. xi. 1972, no. 256.)

Stephenson, George: survey map for Liverpool and Manchester Railway, 1824. (Sotheby & Co., 27. xi. 1972, no. 281.)

Burrell, George: account of the building of the Menai lighthouse, 1835-9. (Sotheby & Co., 24. vii. 1972, no. 351.)

Davidson, William, of the Dragoons: journal of the Crimean War, 1855-6. (Sotheby & Co., 20. xi. 1972, no. 403.)

Disraeli, Benjamin, 1st earl of Beaconsfield: 46 letters to Viscount Barrington, 1867-81. (Sotheby & Co., 26. vi. 1972, no. 325.)

European.

Statutes of the merchants' guild of Pavia, 1368. (Sotheby & Co., 21. xi. 1972, no. 546.)

'Liber taxarum' of the papal chancery, with notes of tax changes, c. 1467. (Sotheby & Co., 21. xi. 1972, no. 559.)

France: letter-book of the comte d'Estrades, ambassador to England 1637 and 1661-2; 1637-62. (Sotheby & Co., 27. xi. 1972, no. 216.)

Lists of French fleets, 1690-3. (Sotheby & Co., 27. xi. 1972, no. 252.)

British Local.

Eliz. I: letters patent licensing Sir Thomas Lucy and others to alienate the manors of Hampton Lucy, Warwicks. and Haversham, Bucks., 19 Nov. 1594. (Sotheby & Co., 27. xi. 1972, no. 248.)

Cambs.: Linton deeds, 1636-94. (Sotheby & Co., 23. x. 1972, no. 384.)

Cornw.: will of Thomasine Bonaventure conveying land in Simpson, Holsworthy, Devon to endow a grammar school in Week St. Mary, [1506]. (Sotheby & Co., 10. vii. 1972, no. 25.)

Glos.: Bristol documents, mostly concerning the Popley family, c. 1571-1653. (Sotheby & Co., 24. vii. 1972, no. 338.)

Herts.: Albury deeds, 1496-1529. (Sotheby & Co., 11. xii. 1972, no. 28.)

Lancs.: grant of land in Walton

(? near Preston), [before 1311]. (Sotheby & Co., 11. xii. 1972, no. 25.)

Lancs.: Edw. III: letters patent granting Henry duke of Lancaster licence to assign to the abbey of Whalley lands in Blackburn Chase, 1360. (Sotheby & Co., 11. xii. 1972, no. 22.)

Lancs. Henry VI: letters patent and inspeximus concerning Whalley abbey, 1446. (Sotheby & Co., 11. xii. 1972, nos. 23-4.)

London: 13 Adelphi leases from the Adam brothers, 1774-83. (Sotheby & Co., 24. vii. 1972, no. 339.)

Norf.: deeds relating to lands in Stokesby and elsewhere, 1428-1638. (Sotheby & Co., 11. xii. 1972, no. 29.)

Northants: grant by Henry de Pinkeny of land in Wappenham, [c. 1200]. (Sotheby & Co., 11. xii. 1972, no. 21.)

Northants: Culworth deeds, 1630-1749. (Sotheby & Co., 27. xi. 1972, no. 230.)

Oxon.: 25 court rolls of Ascot d'Oyley, 1595-1690. (Sotheby & Co., 24. vii. 1972, no. 337.)

Som.: sale of lands at Kingston Seymour by John Guy, 13 Nov. 1622. (Sotheby & Co., 20. xi. 1972, no. 378.)

Staffs. Holles, John, 2nd earl of Clare: 13 letters to his steward at Hamstall Ridware concerning the administration of his estate, 1568-1665. (Sotheby & Co., 23. x. 1972, no. 387.)

American.

Lindsay, Alexander, 6th earl of Balcarres, governor of Jamaica: 6 letters and documents sent by or addressed to him, 1795-1801. (Sotheby & Co., 20. xi. 1972, no. 400.)

West Indies: documents relating to slaves in Jamaica and Grenada, [n.d.]. (Sotheby & Co., 20. xi. 1972, no. 385.)

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Forms for subscription or banker's order may be obtained from the Publications Secretary, Institute of Historical Research, Senate House, London WC1E 7HU. Back numbers for the last two years are obtainable from the Institute. Earlier issues, original or reproduced, may be ordered from Messrs. W. Dawson & Sons Ltd., Back Issues Department, Cannon House, Folkestone, Kent, who will quote prices.

BULLETIN OF THE INSTITUTE OF HISTORICAL RESEARCH

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Clerical Taxation under Henry IV, 1399–1413

RELATIONS BETWEEN the king and his subjects in England during the later middle ages became strained most easily over two main issues, the lack of good government and the problem of taxation. On the former, implying as it did the failure to provide defence from outside attack or from internal disorder, historians have already had a good deal to say, and the causes of the lack of good governance have been variously attributed by both contemporaries and later commentators to the king's personal weaknesses, his bad ministers, his insistence on ruling through favourites, or the like. But the other aspect of this relationship, taxation, has only recently received any considerable attention.¹

The king's subjects fell of course into two classes, laity and clergy. Although there was some overlap, the king treated with each estate separately in their representative institutions, parliament and convocation. A great deal of attention has been given to parliament but much less to convocation. This is regrettable, for the significance of convocation was not confined to ecclesiastical matters. There was, for instance, as strong a feeling of representation behind the late medieval convocations as there was in parliament itself—at least twice during the period under discussion, one or other convocation objected to making a grant of taxation upon persons not represented in the convocation, and when eventually they were forced into doing so, they were quite clear what they were doing. Nevertheless, this apparent neglect is on the whole understandable. The convocations as institutions of representation ceased to have any significance from the sixteenth century and perhaps even earlier; indeed, there is no doubt that they were far less important in the fourteenth and fifteenth centuries than parliament.

There were a number of reasons for this. There was not one body which represented the English clergy but two, the convocations of the provinces of York and Canterbury, and they rarely acted together in harmony. Further,

¹For recent work on parliamentary taxation, see G. L. Harriss, 'Aids, loans and benevolences', *Hist. Jour.*, vi (1963), 1–19; Harriss, 'Parliament and Taxation', in *Studies presented to the International Commission for the History of Representative and Parliamentary Institutions*, xxxi (1966); and Harriss, 'Parliamentary taxation and the origins of appropriation of supply in England, 1207–1340', *Recueils de la Société Jean Bodin*, xxiv (1966), 165–79. I am grateful to Dr. M. C. E. Jones for his comments on this article.

they were primarily ecclesiastical institutions, called into being by the Church, to which the king on occasion gave the tasks of consultation and consent to taxation.¹ They met on other occasions and for other purposes. Indeed the king was unable to summon his clerical subjects himself; he could merely demand that his two archbishops should do so. In consequence, the meetings of the convocations were less regular and much shorter than those of parliament; the matters discussed in them on the whole had less political significance. The more important members of the ecclesiastical assemblies also sat in parliament and thus great matters of state were more usually debated in the latter body than in convocation. In fact convocation was frequently adjourned, often for long periods, because its leaders were busy 'on matters to be discussed with the king and his council'. Convocation came second to parliament.²

Again, full and systematic records were not kept; there are no records of the decisions of the convocations similar to the parliament and statute rolls, let alone of the subjects discussed. All that can be found about the meetings of the convocations are the writs of the king to each of the two archbishops asking them to summon a provincial convocation, and various miscellanea among the bishops' registers. The fullest accounts of the work of these convocations are in general to be found in the registers of the two archbishops, but this is not invariably the case, and sometimes whole meetings of one or other convocation could go unnoticed save for a mention in a contemporary chronicle. This is particularly true of the northern convocation, for the archbishop of York seems to have presided over it less frequently than the archbishop of Canterbury attended his provincial assembly, and certainly there are fewer accounts of convocation in the York registers than in those at Lambeth.³

Nor are the records of taxation granted in the convocations much more informative. The exchequer accounts of the clerical tenth are often entirely formal, for the sums involved had become more or less customary, although

¹ See W. Stubbs, *Constitutional History of England*, iii (5th edn., 1896), pp. 349-52.

² The standard work on the medieval convocations is D. B. Weske, *Convocation of Clergy* (1937). See also E. F. Jacob, *Fifteenth Century* (1961), pp. 303-4, 419-23. This article was written before Professor Jacob's useful paper on 'The Canterbury Convocation of 1406' appeared in *Essays in Medieval History presented to B. Wilkinson*, ed. T. A. Sandquist and M. R. Powicke (Toronto, 1969), pp. 345-53. Many of the writs to the archbishops demanding the call of convocation are enrolled on the Close Rolls, and some appear in *Foedera*, ed. T. Rymer (1704-35). See J. Wayland Joyce, *Constitutional History of the Convocations of the Clergy* (1855, repr. 1967).

³ Many of these miscellaneous references to the meetings of convocation have been collected in D. Wilkins, *Concilia Magnae Britanniae* (1737), but more still lie hidden in episcopal and archiepiscopal registers; especially is this true of Arundel's Register, Lambeth Palace Library (of which an edition is needed). Jacob printed some of the references from Reg. Arundel in his article on the 1406 convocation cited above. For the northern convocation see *The Records of the Northern Convocation*, ed. G. W. Kitchin (Surtees Soc., cxiii, 1906).

new assessments were made from time to time and there were many exemptions.¹ The surviving records themselves consist in the main of enrolled accounts for the southern province and indentures of receipt from the exchequer to the collectors.² Nevertheless something of the political importance attached to clerical taxation can be drawn from the surviving records. The king was not able to collect directly the taxes granted to him by the clergy. Instead the exchequer, notified of the tax, sent writs to each bishop asking him to appoint collectors and to notify their names in the exchequer so that they could account for the sums raised. These writs are important,³ for they are sometimes the only surviving record of the terms on which the grant of the tenth was made. For instance, a statement regularly appears to the effect that the tax should be collected only by the nominees of the ordinaries. Such conditions, where they survive, throw light upon the political discussions in and out of convocation, upon the king's plea of necessity and upon the duty of his subjects to help him.

Despite the lack of sources comparable to the official rolls and other contemporary accounts of the medieval parliaments, enough survives to throw some light upon the relations of the king and his clerical subjects, especially over taxation. The reign of Henry IV is perhaps a suitable period for an analysis of the subject of clerical taxation. The early years of the fifteenth century form a period of high taxation—the demand of the king and his government on his subjects for financial and indeed military aid was very great indeed. And this continual appeal led to a long period of tension between the king and his subjects, expressed in terms of revolt and parliamentary opposition. That the relations between the king and his parliaments under Henry IV were very strained indeed⁴ is well known.

Some of this opposition inevitably found expression among the clergy, for parliament and the convocations had close connections. Convocation was regularly called while parliament was sitting, and the requests for clerical

¹ For the new assessment in the province of York, see W. E. Lunt, 'Clerical tenths levied in England by papal authority during the reign of Edward II', in *Anniversary Essays in Medieval History presented to C. H. Haskins*, ed. C. H. Taylor and J. L. La Monte (Boston & New York, 1929), pp. 172–3; Lunt, *Valuation of Norwich* (1926); J. F. Willard, *Parliamentary Taxes on Personal Property, 1290–1334* (Cambridge, Mass., 1934), pp. 93–109.

² Public Record Office, Exchequer, King's Remembrancer, Subsidy files (clerical) E 179. There are separate bundles for each diocese, including the three sees which comprised the northern province. These are enrolled for the southern province in Lord Treasurer's Remembrancer, Enrolled Accounts, Subsidies, E 359, rotuli 18 and 20. All unpublished material cited in this article is in the Public Record Office.

³ The royal writs to the bishops are enrolled on the Fine Rolls and of course fairly regularly in the registers of each diocese. Notices of the grants of clerical taxation appear in the Record section of the King's Remembrancer Memoranda Rolls, E 159. Other miscellaneous documents survive in Chancery Miscellanea, C 47, bundles 15–21.

⁴ On this, see A. Rogers, 'Henry IV, the Commons and taxation', *Medieval Studies*, xxxi (1969), 44–70. For clerical taxation under Henry V, see R. L. Storey, *Thomas Langley and the Bishopric of Durham, 1406–37* (1961), pp. 210–12.

taxation were clearly intended to match the grant of a lay subsidy¹ in parliament. Indeed, there were occasions, as will be seen, when the Commons exerted considerable pressure upon the clergy to grant more in the way of taxation. But the king was on the whole able to treat the convocations more arbitrarily than parliament. They were led and controlled by the bishops, and the king's control over the Bench ensured him of domination over the two provincial houses of clergy. On at least three occasions during Henry IV's reign, despite express prohibition by the clergy, the Canterbury convocation was summoned to make another grant before the previous grant had expired, a procedure adopted with regard to parliament only in 1411. From the king's point of view, clerical taxation had much importance; it did not yield so much as the lay taxes of one tenth and fifteenth, but it could more easily be obtained and it was subject to much less effective conditions than were the lay grants.²

In regard to clerical taxation these episodes indicate the importance, in any discussion of clerical taxation, of the dates when the taxes fell due.³ Both lay and clerical taxation were often spread over many months, sometimes indeed over two or even three years. Such delays may well alter the picture of generosity on the part of the king's subjects. Early in 1410, for example, the king was granted three half tenths and fifteenths by the laity, three half-tenths by the Canterbury convocation and two half-tenths by the York clergy. But the collecting period for this large promise of taxation was spread over more than two and a half years. This must have affected the credit of the government. It is true that the king could, and did on many occasions, anticipate the revenue either by collecting it early or by raising loans in advance of the tax to be repaid when the tenth became due.⁴ Nevertheless, in the long run the king's credit depended upon when the tax fell due and this was in some cases more than two years after it had been granted.

Henry IV's first convocation, that for Canterbury, called by royal writ, met on 6 October 1399. The relations between parliament and the convocation are perhaps nowhere more clearly exemplified, for that was the same day as parliament opened. Further, as with his lay subjects, Henry made a great point of the fact that he did not intend to ask his clerical subjects for any taxation at that time. There occurred a good deal of mutual exchange of

¹The term 'lay subsidy' is used here of the tenth and fifteenth granted in parliament.

²See the comment of Walsingham in 1404, *Historia Anglicana* (Rolls Ser., 1863-4), ii. 262, that 'appensa pecunia, neglecta mox fuit conditio interposita'. For the yields of the tax, see below, pp. 138-9.

³See Appendix below.

⁴See A. Steel, *The Receipt of the Exchequer* (Cambridge, 1954), p. 83. Assignments were often made on the taxes well before they were due, and the frequency with which the clergy tried to insist that the taxes voted should not be collected early makes it clear that regular efforts were made to do so. In the northern province, it was a common feature for both halves of a grant to be raised at the same time.

views between the two bodies, with the king's chamberlain, Sir Thomas Erpingham, and the two Percy brothers, the earls of Worcester and Northumberland, acting as go-betweens, and convocation addressed itself to the reform of the Church in a long series of sixty-three articles.¹

Henry was not, however, entirely without taxation from the clergy during his first year. A tenth had been granted to Richard II by the northern clergy on 12 May 1399 and the second half of this fell due during 1400 and was collected.² In February 1400, at a great council which made plans for an invasion of Scotland, the clerical lords granted a tenth on their own property, to be set against any future tenth which might be granted by the convocations at the request of the king 'for this necessity or for a similar one'.³ Nevertheless the heavy expenses of the military activity made a more general appeal to his subjects inevitable, and early in 1401 a parliament met at Westminster.⁴ The Canterbury convocation met a few days later, on 26 January, in London. Royal pressure was exerted through Erpingham and the earl of Northumberland, assisted this time by John⁵ Norbury esquire and other peers and nobles. A grant was eventually made on 11 March—three half-tenths spread over one and a half years, becoming due in May and November 1401 and in June 1402. As was usual, it was said to have been granted for the defence of the realm and of the English Church, and a formal schedule of conditions was attached to the grant, containing what had become customary terms—that the clergy should not be taxed in any other way while the tenths were being collected; that the grant should not be levied earlier than the dates specified; and that the king should not use his secular authority to force the collection of the tax.⁶

Such a grant must be compared with the single lay tenth and fifteenth granted in March 1401 by parliament, to be collected almost simultaneously, half in May and half in November 1401.⁷ Like the lay tax, the clerical tenth did not become due for some months after the date of the grant; royal writs to the bishops to appoint collectors were not issued until mid April. It seems quite clear that the two grants, made within a day or so of each other, were intended to be parallel; but it is not clear whether the clerical tax was delayed until the size of the lay subscription had been decided.

¹ Wilkins, iii. 238–45.

² E 179/60/2; E 179/62/9. It was still being collected in June 1402, *Calendar of Fine Rolls 1399–1405*, pp. 160–1, when it was said to have been granted in the convocation at York on 11 March 1399.

³ *Proceedings and Ordinances of the Privy Council*, ed. N. H. Nicolas, i. 104–5; see *Annales Henrici*, in J. de Trokelowe and H. de Blanford, *Chronica et Annales*, ed. H. T. Riley (Rolls Ser., 1866), p. 332.

⁴ See, for this parliament, A. Rogers, 'The political crisis of 1401', *Nottingham Mediaeval Studies*, xii (1968), 85–96.

⁵ He is called Thomas Norbury in Wilkins, iii. 254–63.

⁶ *Ibid.*, iii. 262; *Cal. Fine Rolls 1399–1405*, p. 123.

⁷ *Rotuli Parliamentorum*, iii. 455. Both lay and clerical taxes fell due on 29 May, but the other half of the lay subsidy fell on 1 Nov., the half-tenth from the clergy on 30 Nov. 1401.

The northern convocation could not normally sit during the sessions of the parliament, for all the chief clergy were otherwise occupied at Westminster or wherever the parliament was sitting. It was therefore not until later, sometimes indeed many months later, that it met in the northern province. In view of this delay and the political isolation in which the York sessions took place, it seems remarkable that this convocation was sometimes more outspoken than its southern and more wealthy neighbour. Perhaps this is merely a reflection of the survival of records, but the northern convocation often insisted upon attaching more stringent conditions to its grants. This more persistent opposition may help to account for the uncertainty surrounding the matching grant made by the York convocation during the summer of 1401. A convocation met at York on 6 June and apparently conceded one tenth, although the royal writ to the collectors stated that the tax had been agreed on 26 July. Whatever happened, the tenth, expressly for the defence of the realm and of the English Church, fell due in two halves spread over nearly two years, at Easter 1402 and February 1403. A long list of exemptions was attached to the grant.¹

The collection of the tenth from the Canterbury clergy came to an end in June 1402. A new convocation was summoned and met in London on 21 October of that year, matching the parliament which had been sitting at Westminster from early in that same month. A list of agenda was presented to the convocation and it continued in session until 27 November 1402, three days after the Commons had agreed to pay one tenth and fifteenth, to become due in three instalments during the following year.² The grant made by the Canterbury convocation, after the king had sent his commissioners (all ecclesiastics this time) to ask for help in repairing the ravages of war, was once again rather more generous—three half-tenths spread over a slightly longer period, from March 1403 to February 1404.³ The conditions attached to the grant were more numerous. A petition was sent into parliament concerning the privilege of the clergy in matters of the law; the grant should not be taken as a precedent; no other taxes were to be taken from the clergy while this one was being collected; it was not to be collected early, and not by the king's writs but by ecclesiastical collectors. It was to be used for the defence of the realm and of the English Church.

No parliament met in 1403, although one was summoned for the end of the year. The convocation of Canterbury, however, did meet in London on

¹ Wilkins, iii. 267; *Cal. Fine Rolls 1399-1405*, pp. 134-5; E 179/60/3. It was collected as a whole in the Carlisle diocese.

² *Rot. Parl.*, iii. 493. Rogers, 'Henry IV, the Commons and taxation', p. 50 incorrectly gives the date when the final quarter of the lay subsidy became due as 11 Nov. 1404 instead of 1403.

³ Wilkins, iii. 270-2—the agenda was the grant of 'subsidiū quoddam ad reprimendas guerrarum concussiones', and the problem of heresy; *Cal. Fine Rolls 1399-1405*, p. 197. The records of the exchequer usually refer to the first day of the convocation as the date of the grant. Thus E 359/18 describes this tax as having been given on 21 Oct. 1404.

6 October, although the evidence for it is only partial.¹ One of the half-tenths granted in 1402 was still outstanding and indeed was not due until 2 February 1404, but the king needed more urgent help than this could provide, and a threat of ecclesiastical dispossession was enough to secure it.² An additional half-tenth was given to be paid almost immediately, on 18 November 1403, and a few days after the grant the exchequer sent its warrants to the bishops to appoint collectors, 'notwithstanding any conditions in the last grant'. It was clearly understood that this was a breach of the provision that the clergy should not be subject to any other tax while the tenths were being collected, but the king's immediate necessities overruled such considerations. Among the conditions attached to this grant, however, was one of great significance, cancelling letters of the privy seal already sent out to some of the clergy. These letters anticipated the tax by raising large loans on the surety of the tax, and a number of clergy are known to have received them.³

This meeting having been held, there followed no convocation parallel with the parliament of January 1404. The story of this year's finances is a most confused one, and the confusion spreads also to the clerical tenths. The parliament of January tried to set up a new form of tax on land and incomes, but there was little yield from this.⁴ Nevertheless, it is clear that there was a threat that the tax should extend to clerical lands and incomes as well, and indeed some of it was apparently collected from these sources.⁵ Despite the additional payment made only five months earlier and the half-tenth which had fallen due in February, the convocation of the Canterbury province met from 21 April to 6 May 1404 to consider the matter.⁶ Strong pressure was exerted on the clergy by unnamed commissioners of the king, and eventually they assigned to the king 'unum subsidium et unam decimam'. Each part was declared to be for a specific use. The tenth was to be payable in two halves, one on 11 November 1404 for payment of loans and other of the king's debts at the discretion of the king's council, and the

¹ Wilkins says that it does not occur in Arundel's register, but at least two other registers record 'hac synodum per breve regium congregata' (Wilkins, iii. 274; *Cal. Fine Rolls 1399-1405*, p. 225; *Historia Anglicana*, ii. 259).

² *Annales Henrici*, pp. 373-4, council at Worcester, Sept. 1403.

³ *Calendar of Patent Rolls 1401-5*, p. 405; *Calendar of Close Rolls 1402-5*, p. 349. In Jan. 1404, the clerical tenth was assigned to help meet the costs of the king's household; but even before this, some of the tax was used to pay household costs, especially the wages of the clerks of the chapel, Warrants for Issue, E 404/18/386; Issue Rolls, E 403/576, 27 Apr. A £2,000 loan from London was secured on the tax (*Calendar of Letter-Books of the City of London*, ed. R. Sharpe (1899-1912), i. 29). For a loan from the bishop of Winchester secured on the tax, see E 404/19/318.

⁴ *Rot. Parl.*, iii. 522-38; *Historia Anglicana*, ii. 260.

⁵ Many of the clergy were asked to make large loans to the war treasurers, to be set against their share of the tax granted in parliament (*Proc. Ord. Pr. C.*, i. 199-202).

⁶ Wilkins, iii. 279-80. It was called on 1 Apr. to vote money for the king's immediate necessities, but apparently the attendance was not enough, so it was summoned again on 21 Apr. (*Annales Henrici*, p. 388; J. H. Wylie, *History of England under Henry IV* (1884-98), i. 415).

second half on 1 May 1405 'for the use of the king and for the defence of the realm'.¹ More immediately significant, however, was the 'subsidy' (the term is used here clearly in a special sense, distinguishing this tax from the tenth which on other occasions is called a subsidy). This subsidy took the form of a levy of 2s in the £ on all exempt benefices and offices over 100s per annum, the assessment to be carried out by the bishops, not by officials of the exchequer. It was to become due almost immediately (24 June 1404) and was to be at the king's disposal and use, unlike the lay tax which was to be paid to special war treasurers.

The conditions attached to the grant show something of the discussions which took place during the convocation. It was agreed that the new form of taxation in the parliament of January 1404 should not be raised on any of the lands paying to the clerical 'subsidy' or to the clerical tenth, and the clergy should not be molested by that tax in any way; any sums already taken were to be restored. The goods of the clergy should be exempt from royal purveyance.² Further, the normal conditions were strengthened: the king was to defend the liberties of the Church, and especially to issue a certain declaration and protection under the great seal to the clergy.³ In 1404, the clerical tenth was more important to the king than ever, for the lay taxes were in the hands of war treasurers. The government moved swiftly; on 17 May 1404, eleven days after the grant, writs were issued to the bishops to appoint collectors for all three parts of this tax.

The northern clergy came under similar pressure during 1404. There had been no meeting of the York convocation at the request of the king for three years, although a tenth originally granted by the northern clergy in 1399 had been levied in 1402.⁴ On 16 March Henry issued writs to the archbishop instructing him to summon a convocation and obtain a vote of money for the immediate necessities of the realm; and this was followed by a further writ on 6 May. This convocation met on 2 June, when it granted one tenth.⁵ The tax was to be collected in two instalments (20 January and 1 November 1405),⁶ and letters were issued for the province of York similar to those for the Canterbury clergy.⁷

¹ Poor benefices, those in Wales or the Welsh Marches and those otherwise destroyed by war or water were especially exempted.

² *Cal. Fine Rolls 1399-1405*, pp. 246-7; *Historia Anglicana*, ii. 262; *Annales Henrici*, p. 388.

³ This was issued, dated to 25 Apr. 1404, i.e. some days before the grant of 6 May (*Cal. Pat. Rolls 1401-5*, p. 309). Professor Jacob thought that the pressure brought to bear upon the clergy to grant this subsidy was the threat of dispossession. But it is clear that the real pressure was the threat of the new tax granted in Jan. 1404.

⁴ E 179/60/2; *Cal. Fine Rolls 1399-1405*, pp. 160-1.

⁵ Wilkins, iii. 281; *Cal. Close Rolls 1402-5*, p. 369. There were two meetings of the northern convocation in 1402 and 1403, but not apparently to consider royal taxation (*Records of Northern Convocation*, p. 124).

⁶ E 179/60/11 (Carlisle diocese); E 179/62/11-12 (Durham diocese); E 179/63/44 (York diocese); E 159/181, Recorda, Mich. m. 25; Wilkins, iii. 281. Letters from the king to the bishops to appoint collectors do not seem to have survived.

⁷ *Cal. Pat. Rolls 1401-5*, p. 399, 11 June 1404.

The plan devised by the Commons in January 1404 failed to yield any substantial revenue, and the clerical taxes thus became vital to the administration in 1404. The 'subsidy' from the clergy was assigned wholly to the king's chamber, while on 1 July 1404, £800 from the first part of the Canterbury clerical tenth was assigned by the council to the wardrobe, although it did not fall due until November. At the same time, £3,000 was to be made over from both provinces to the queen.¹ Some of the 'subsidy' was collected by William Dionys, clerk of the king's works, and paid over to the chamber.² But like the lay tax, which the Commons later criticised as impossible to levy fairly, it proved very difficult to collect. The clerical tenth on the other hand was being gathered in and used for the household and for the French wars.³ When in November 1404 a new parliament was summoned to Coventry to sort out the confusion, a new convocation of Canterbury also met (24 November). On 12 November, parliament made the most generous lay grant of the whole reign, a whole tenth and fifteenth to fall due within a month, and two further half tenths and fifteenths, payable in June and November 1405, together with a revised land tax of a half-tenth on all landholders with property worth more than 500 marks per annum.⁴ The Canterbury convocation matched this, again under threat from the Commons of dispossession.⁵ On 28 November 1404 a new grant of three half-tenths was made, although once again one half-tenth remained outstanding (May 1405) while another half-tenth had only just become due (11 November). The two new payments were, therefore, staggered rather more than usual. A full tenth, the only one from the clergy for the whole reign, became payable in February 1405, before the half-tenth of May, and the

¹ E 403/579, 9 Aug.; E 404/19/451; *Cal. Pat. Rolls 1401-5*, pp. 405, 408, 418; *Cal. Close Rolls 1402-5*, pp. 413, 414-15. Only £12 had been paid by October, and the king was still trying to collect this amount early (E 159/181, Recorda, Mich. mm.8, 19).

² Professor Jacob thought this subsidy was not collected, for it does not appear on the Receipt Rolls. But the rolls were badly kept in 1404, and the Issue Rolls are quite clear: sums were paid 'per manus Willielmi Denys . . . specialiter deputati ad recipiendum omnimoda summas denariorum de quibuscumque collectoribus subsidii dicto domino Regi a clero de beneficiis et officiis non taxatis anno quinto concessi provenientas pro expensis eiusdem camere per breve de privato sigillo' (E 403/579, 9 Aug. 1404; E 403/581, 3 Oct. 1404, 27 March 1405). The total amount paid is not preserved, but it was well over £1,000. Some of the chamber assignment was used for the king's works, E 159/182, Brevia, Hill. m.16d. The enrolled account, E 359/20, m.1, shows a yield of at least £600 into the exchequer.

³ On 26 Aug., the council assigned £1,000 from the second half of the clerical tenth to the household and other large sums for Aquitaine (*Cal. Pat. Rolls 1401-5*, p. 420; *Foedera*, viii. 371). These sums had not been obtained by November, E 159/181, Brevia, Mich. m.9d, for the second half was not due until May 1405. The entry in *Cal. Pat. Rolls 1401-5*, p. 484 is confused.

⁴ *Rot. Parl.*, iii. 546; *Eulogium Historiarum*, ed. F. S. Haydon (Rolls Ser., 1858), iii. 402. Loans for a Welsh expedition were raised in the parliament from ecclesiastical persons, to be set against the clerical tenth to be granted in the next convocation; they were to be paid to the war treasurers, *Rot. Parl.*, iii. 547.

⁵ *Annales Henrici*, pp. 391-4; *Historia Anglicana*, ii. 265.

further half-tenth fell due at Christmas 1405. The conditions attached by the clergy to the grant were stringent. It was allocated to the defence of the realm: the clergy should be exempt from all other forms of taxation while it was being collected, and should not be harassed in any way by parliaments, councils or other bodies. But the half-tenth due in May would remain in force. Once again the king moved promptly and writs went out to the bishops on 6 December 1404 and on the following day, letters withdrawing the earlier subsidy were issued.¹

It is clear, however, that the king asked for more from his clerical subjects than just the normal tenths. As he had secured from parliament an additional tax on the greater lay landowning families of the realm, so he required the convocations to grant a subsidy on the stipendiary chaplains and other exempt clergy. This the archbishop of Canterbury refused to allow on the grounds that convocation did not represent the persons now put under subscription; while it would prove difficult to summon a representative assembly of these chaplains.² The matter was considered at a great council when it was decided that the king should ask all the bishops to exhort their stipendiary clergy 'to make a grant in salvation and defence of themselves and of the realm'.³ But in the event no such grant was made by the Canterbury clergy at that time.

The grant made by the northern clergy in the summer of 1404 was similarly supplemented at the end of that year. In November, a further warrant from the king to the archbishop of York was recorded, and the northern convocation met from 11 December 1404 to 14 January 1405. Both parts of the previous grant remained outstanding, but a further tenth was given subject to the condition that it would not be raised until the earlier tax had been collected.⁴ The tenth was divided into two halves, due in April 1405 and February 1406. And the York convocation made a gesture to the king and the Commons: 'so that the present grant of tenths for your greater ease should result in the better support of your aforesaid burdens', the tax would be extended to all benefices valued at £10 or less, which were not represented in convocation; it was not, however, to be taken as a precedent. The fact that the northern province was prepared to allow what amounted to a more generous subsidy than that granted by the south may not indicate greater

¹This convocation does not appear in Wilkins (but the letters of 7 Dec. do, Wilkins, iii. 280); see *Cal. Fine Rolls 1399-1405*, pp. 292-3; *Annales Henrici*, p. 394.

²*Royal Letters of Henry IV*, ed. F. C. Hingeston (Rolls Ser., 1860), i. 413; Stubbs, iii. 48; Wilkins, iii. 280. The exempt clergy were alleged to have their own convocations.

³*Proc. Ord. Pr. C.*, ii. 100-2. The council amended the recommendations of the great council so that the letters to the bishops were to be sent out under the king's signet rather than the privy seal, 'car par ce serront sibien les prelatz come les chapelains stipendiars et autres plus excitez daccomplir votre roial entencion et desir en celle partie que ne serront par lettres desouz voz grant ou prive sealx a ce que nous pensons bien de certain'.

⁴In fact, it overlapped the earlier grant (E 159/181, Recorda, Pasche m.17; Wilkins, iii. 281). Once again there are no writs to the bishops on the Fine Rolls.

compliance on the part of the York clergy. The concession was deprived of much financial significance by the many exceptions listed.

The end of 1404 saw the most substantial grants made to Henry IV by his subjects. Within a space of less than two months, parliament and both convocations had granted taxes on a larger scale than ever. Parliament gave two whole tenths and fifteenths and a land tax on all the greater landowners. Although other sums were still outstanding from grants made earlier in 1404, both York and Canterbury also gave taxes—Canterbury one and a half tenths and York an extended tenth. All these were to be collected within a period of not much more than twelve months from the grant. During 1405, then, the king was able to receive the profits from one whole tenth (February) and two half-tenths (May and December) from the province of Canterbury, and from two half-tenths (January and November 1405) and two extended half-tenths (April 1405 and February 1406) in the northern province. The whole of the lay taxes, however, went into the hands of new war treasurers. From the clerical tenths, some of the costs of the king's chamber were paid,¹ and it is clear that the taxes produced a good deal of revenue. In these circumstances, no convocation was held in 1405 for the purposes of taxation, although the king turned to the clergy once more for help early in the next year.²

The parliament which sat through most of 1406 was the longest and most vociferous known during the middle ages in England. The Commons refused to concede any form of aid until the administration had been substantially reformed. In June they made an interim settlement, extending the customs, adding a surcharge for alien merchants (1s poundage) and allowing the king to take one noble (6s 8d) from the customs for his own expenses, after other charges of government had been paid; but the final grant was delayed until December 1406.³

During the parliament, the southern convocation was summoned and met at London from 26 April until 16 June with many long adjournments. Eventually⁴ it made a grant in two parts, a special subsidy and a more normal tenth. The latter was to be collected in two instalments, in November 1406 and March 1407, for the relief of the realm.⁵ But once again the subsidy had more significance. It became due almost immediately (8 July 1406) and

¹ E 404/20/269; Privy Seal Office 1/3/20. Some of the clerical taxes were assigned by the war treasurers to the prince of Wales, E 101/44/1, but they do not seem to have handled these as well as the lay subsidies.

² *Annales Henrici*, p. 414; Wilkins, iii. 282, refers to the 1406 Canterbury convocation under 1405.

³ *Rot. Parl.*, iii. 568, 578.

⁴ 10 May 1406 in E 359/18. Convocation was prorogued from 26 Apr. to 10 May. The grant was said to have been made on 16 June (*Cal. Close Rolls 1405-9*, p. 57) but E 403/587 records the appointment of collectors under 7 June.

⁵ 'ad sublevandum paupertatem regni et ad amovenda pericula et calamitates eidem imminencia' (Wilkins, iii. 282, 284). For the negotiations in this convocation, see Jacob, 'The Canterbury Convocation'. The subsidy was due in July 1406, not June 1407 (*Cal. Fine Rolls 1405-13*, pp. 3-4, 35; *Cal. Close Rolls 1405-9*, p. 57).

consisted of a noble on all exempt clergy, stipendiary or beneficed. The conditions attached were quite specific: no further tax should be levied for one year after November 1406; the clergy should not be mulcted in any other way while these taxes were being collected; it was to be applied wholly to the defence of the realm and the English Church by the advice of the council; the noble should not be taken as a precedent for further taxation, and no part of the tax should be taken early. The king was desperate for money in view of the Commons' refusal to aid him. On 17 June, the day after the grant was agreed, writs were issued to the bishops, and four days later further letters were sent out to aid the collectors in entering ecclesiastical franchises to collect the subsidy. The York convocation followed suit; on 12 July it too granted additional taxes—one tenth and a subsidy of 6s 8d on all unassessed clergy and a tenth on all benefices hitherto untaxed.¹ Both were paid in two halves, in March and November 1407.² The effect of this action by the clergy upon the Commons can only be a matter of speculation, but when they came to make their grant on 22 December 1406, they merely gave the king one tenth and fifteenth, due in February 1407.³ It was not by any means a generous aid.

Parliament met again only nine months after this settlement, at Gloucester (October 1407); and early in December the Commons conceded a further one and a half lay subsidies, to fall due in February and May 1408 and in February 1409. In return the king agreed that no parliament should be held for the purposes of taxation for two years from March 1408.⁴ The convocation which met at Oxford⁵ from 28 November to 10 December 1407 overlapped with the parliament by several days, and it made the same stipulation. No sum had been due from the clergy of Canterbury since March; now they granted three half-tenths, due at Easter and November 1408 and at Easter 1409. There was to be no further taxation for two years from March 1408, and the taxes were not to be collected early. Ten days later, the king issued his writs to the bishops to appoint collectors for all three instalments, and at least the first half-tenth was assigned to the king's household.⁶

York, however, adopted a more intransigent attitude. As usual, its con-

¹ Wilkins, iii. 303; Storey, p. 210; the details of the extra subsidy are in E 179/63/62-72—a tenth on all hitherto untaxed benefices and other offices worth £15 p.a. or more and a subsidy of 6s 8d on all clergy who did not pay in any other respect.

² See E 359/20; E 159/182, Recorda, Mich. m.26. It was collected as a whole in the sees of Durham and Carlisle; in two halves in York. W. E. Lunt, *Financial Relations of England with the Papacy* (Cambridge, Mass., 1939-62), ii. 122, suggests this grant was made in 1407, not 1406. The archbishopric was vacant at this time. Perhaps this was why it was not notified to the king until 18 Aug., a date which is sometimes given as the date of the grant on exempt benefices (E 359/20; Wylie, ii. 432; Wilkins, iii. 303).

³ *Rot. Parl.*, iii. 568.

⁴ *Ibid.*, p. 612.

⁵ The only time in the reign that a clerical tenth was granted in a convocation outside London.

⁶ Wilkins, iii. 306; *Cal. Fine Rolls 1405-13*, pp. 94-5; E 404/23/299,251. *Eulogium Historiarum*, iii. 412, confuses this convocation with one of the later sessions.

vocation met later (March 1408) but it failed to produce any financial assistance for the king.¹ On 8 May the king issued new writs and convocation met again in June. It lasted with many long adjournments until 10 December 1408, but right to the end the clergy 'could in no wise be moved to concede any subsidy, alleging reasonable excusatory causes, as it would appear *prima facie*'. Not until the archbishop himself appeared was any grant made. Then a tenth was grudgingly conceded on conditions, and the king's writs to the bishops reveal what those conditions were. Pleading 'their notorious poverty and many insupportable losses befalling them at this present time by inundations of waters and violent storms of wind', the clergy spelt out their terms: ecclesiastical lands which paid to the clerical tenth should not fall subject to the lay tax of the fifteenth; the clergy were not to pay any other tax at that time. Further, the present grant should be observed intact in the form aforesaid without any addition or subtraction, or otherwise it would be void—a condition reflecting suspicion against the king's government and the exchequer equal to any that Richard II's administration had encountered. The tenth was extended 'at this turn only' to all benefices worth less than ten marks per annum (normally excluded from the tax), but a very long list of exemptions again reduced the value of this concession. The tax would not fall due until May and November 1409.²

The Canterbury convocation and the parliament thus stood in abeyance during 1408 and 1409, at least with regard to royal taxation, and the York convocation of 1408 had spread its grant out over the whole of 1409, so that nothing could be done in that year to increase the king's income. It is true that the southern convocation met in July 1408 and January 1409 to consider the problems of papal taxation, the great schism and the spread of heretical opinions, but the government was unable to take advantage of these sessions.³ And the taxation upon the country in these years was light, lighter than at any time so far in the reign (except 1400); Canterbury provided one half-tenth in 1407, two halves in 1408 and one half in 1409, while York seems to have provided two half-tenths in 1407, nothing in 1408 and two halves in 1409.

Thus not until 1410 could the king call upon his lay and clerical subjects for further aid. Parliament met in January 1410. By that time, the prince of Wales was at the head of an administration, supported by the Beaufort clan. It was a long and by no means easy session, ending with a grant of one and a half lay subsidies, to be collected in three annual instalments, in the November of the years 1410, 1411 and 1412. Both convocations sat at the same time,

¹ Wilkins, iii. 306; *Cal. Close Rolls 1405-9*, p. 366. The delay may have been caused by the troubles in the north resulting from the earl of Northumberland's invasion.

² Wilkins, iii. 319; *Cal. Fine Rolls 1405-13*, pp. 140-1. See also *The Register of Thomas Langley*, i, ed. R. L. Storey (Surtees Soc., clxiv, 1956), pp. 51-6, 96-7. It was, however, collected as a whole in Carlisle and Durham dioceses.

³ Wilkins, iii. 306-11, 311-19. In 1407, the pope had asked the English clergy for an 'aid' (Lunt, *Financial Relations*, ii. 122). The northern convocation also met to debate the schism (*Langley's Register*, i. 77-85; *Records of Northern Convocation*, pp. 127-34).

an unusual procedure, for the York convocation rarely met while parliament was sitting. A threat in parliament to tax all non-resident beneficed clergy and appropriated rectories to the king's use may have had some effect on the convocations.¹ The Canterbury meeting lasted from 17 February until at least 5 March 1410, and legates came from the king demanding a subsidy. A grant of three half-tenths was once again made, to fall due at nine-monthly intervals in October 1410, June 1411 and February 1412. There was to be no new demand for aid before February 1412, a further vain attempt to end the practice of summoning convocation before the previous grant had expired. Writs seem to have been issued by the exchequer for each half separately rather than for the whole.²

The York convocation of 1410 again proved more difficult. Summoned by royal writ to the archbishop, it met in February, but the grant was not forthcoming until the end of May 1410.³ The clergy stood adamant—'nullis argumentis ad subsidium concedendum flecti posset'. Even when the archbishop himself was present, 'clerum frustra ad subsidii concessionem incitari tentasset'. Eventually, however, a grant of one tenth was made, subject to conditions, 'nostris precibus et instantia cumulatis devicti', together with a long list of exemptions. It would seem that the government was again demanding from the clergy a more widely based tax than the tenth, but that this was resisted. The tenth was to fall due in November 1410 and November 1411.⁴

Despite the condition attached to the Canterbury grant of 1410 and despite the fact that parliamentary and clerical taxation were still outstanding at the end of 1411, the change of administration at that time and the active plans for a royal expedition to France made another appeal to parliament and convocation necessary. Parliament met from 3 November to 19 December, when a new form of land tax, amounting to one noble from each £20 worth of land or income was granted to the king, to fall due in February 1412.⁵ The two convocations also met at the same time. The Canterbury assembly lasted from 1 to 21 December. A deputation from the parliament, Edward duke of York, Sir Thomas Beaufort the chancellor, Henry Lord le Scrope

¹ *Rot. Parl.*, iii. 635, 645. See also Stubbs, iii. 65-6.

² Wilkins, iii. 324-9; *Cal. Fine Rolls 1405-13*, pp. 209-10. The exact date of the grant is uncertain. In July 1410 the council was considering the allocation of the full three half-tenths (*Proc. Ord. Pr. C.*, i. 342). There is a royal writ only for the midsummer 1411 instalment, and that was apparently enrolled only for 5 bishoprics. For this Midsummer half, see *ibid.*, ii. 6-13; E 403/607, 23 March (1411). For the third half-tenth, see E 403/609, 4 Feb. Assignments were clearly being made on these taxes well before they were due.

³ The records in E 179/63 reveal the confusion over this grant; the dates are given variously as 4 or 24 May or 4 or 24 July 1410. The grant was made on 23 May and notified to the king on 14 June.

⁴ Wilkins, iii. 333; Storey, p. 210. Writs for the collection survive, not on the Fine Roll but in *Reg. T. Langley*, i. 133-4, 138; they list the exemptions. Further taxes on the northern clergy for the council at Pisa were taken in 1410 (*ibid.*, p. 130). In E 179/60/6, this is described as one tenth on all goods valued at 10 marks or more.

⁵ *Rot. Parl.*, iii. 648-9.

the treasurer and the king's chamberlain, Richard Lord Grey, attended the debates and the chancellor made a long speech concerning the royal plans. The king intended to go to France with a great army; he planned a brief campaign, certainly no longer than six months, but it would need large sums—at least £100,000. The importance of the delegation was designed to bring home the king's great and urgent need, but the convocation remained unimpressed. It had already faced a demand from the pope for three annual tenths to start in 1411, and the royal demands seemed excessive. After all, one half-tenth still remained due next February. Articles were drawn up concerning the reform of the Church and the record says that after various discussions concerning a half-tenth 'in subsidium regis et regni', the convocation dispersed.¹ In fact, a grant was made—one half-tenth to fall due at the end of 1412, to supplement the February payment. It was not to be levied before Michaelmas 1412, nor followed by any new demand before the end of that year. Once again the tax was accompanied by a long list of exemptions. What makes the long discussions in convocation more intelligible is the condition that the new land tax granted in the parliament was not to apply to the clergy. The council promptly allotted the tax to the costs of the expedition.²

The York convocation was equally difficult. It met in November 1411 and again in January 1412: on both occasions lively debates took place, and the archbishop was unable to force the clergy to concede a subsidy, 'overcome by poverty' as they claimed to be. At last on 20 January they barely acceded to the royal demand and gave a half-tenth to fall due in November 1412.³ A schedule of conditions was attached to the letter which informed the king of their decision: once again the clergy were to be exempt from the parliamentary income tax, their lands would not be subject to the fifteenth, and they were not to be molested by any other form of taxation while the half-tenth was being collected.⁴ The tax was granted to the king's special use on account of his most pressing needs, and he immediately raised 500 marks from the archbishop of York on the strength of it.⁵

In March 1412, the Canterbury convocation was again summoned in pursuance of a royal writ to the archbishop, but financial business does not seem to have been discussed. Early in 1413, parliament and the York convocation were both summoned but the illness and eventual death of Henry IV prevented them from holding any sessions.⁶

The incidence of clerical taxation throughout Henry IV's reign was heavy during the years 1401-6 but lighter thereafter (see Appendix). Canterbury

¹ Wilkins, iii. 334-7.

² *Cal. Fine Rolls 1405-13*, pp. 243-4; *Proc. Ord. Pr. C.*, ii. 34.

³ 'aegre concedebant' (Wilkins, iii. 338).

⁴ *Cal. Fine Rolls 1405-13*, pp. 242-3.

⁵ E 404/37/406.

⁶ Wilkins, iii. 338, 351. The list in *2nd Rept. of the Deputy Keeper* (1841), App. ii, pp. 181-5, gives a Canterbury convocation from 6 March to 8 May, with a grant of one tenth. This is the first grant under Henry V.

paid two half-tenths in 1401, one in 1402, three in 1403, two halves and a subsidy in 1404, one whole tenth and two halves in 1405, and a subsidy and one half in 1406. Only in 1402 did they pay less than one whole tenth. Later in the reign the rate of taxation diminished—one half in 1407, two in 1408, and one in each year until 1412 when two halves were collected. York's burden was lighter. There was one half-tenth granted in Richard II's reign, collected in 1400-2, a half-tenth in 1402 and another half-tenth in 1403; two half-tenths and one extended half-tenth in 1405. The other half of the extended tenth was levied in 1406. The tenth and the subsidy granted in 1406 were spread over 1407, but nothing at all was taken in 1408. There were two halves due in 1409 and one each in 1410, 1411 and 1412. Omitting the grant made before Henry became king, York paid in all thirteen halves of the tenth during the reign; Canterbury twenty-one. In addition both paid subsidies in 1406, while Canterbury had a subsidy forced upon it in 1404. York extended its tenth to exempt benefices in 1405. This burden may be put against the lay taxation of a total of sixteen half tenths and fifteenths throughout the reign, together with an experimental new subsidy in 1404 and an income tax in 1411-12. It is in this context that Archbishop Arundel's retort in November 1404, 'clerum semper tantum Regi contulisse quam laici, dum decimas ipsi frequentius darent Regi quam ipsi quintas decimas', must be viewed.¹

How heavy a burden this proved is not clear. Certainly the yield of the clerical tenth was only approximately half that of a lay tenth and fifteenth. It is not easy to be certain of the real value of clerical taxation in the early fifteenth century. In 1401, thirty-five groups of collectors in the province of Canterbury were assessed for the half-tenth at £8,229, of which they answered for £6,489 and took for expenses £83. In April 1404, the assessment on thirty-one collectors amounted to £8,274 and the yield to £6,810; in 1412, thirty-two collectors, assessed at £8,033, accounted for £6,734, with £84 for expenses.² It would thus seem that a clerical tenth in the province of Canterbury was expected to yield, in principle, something under £16,500—almost exactly the same as had been calculated in 1320 when a new assessment was drawn up in the province.³ Immediately, the tenth would seem

¹ *Historia Anglicana*, ii. 265. There was also an aid in 1402 for the marriage of the king's eldest daughter, but this fell on the greater landowning clergy as well as on the laity. It may be significant that up to 1404, one lay subsidy was matched by one and a half clerical tenths, but after that date, the clerical tenth and the lay tenth and fifteenth were matched.

² E 359/18.

³ Lunt, 'Clerical tenths', pp. 174-5; the assessment was £16,626, of which nearly £500 was in arrears at the time of the account, and £260 went in expenses. Well over £300 of the arrears were collected in 1320. Ramsay says the clerical tenth in 1377 was worth £15,767 and in 1382-3 only £12,468, but by 1398 it had dropped to £7,600, but his figures are suspect (J. H. Ramsay, *History of the Revenues of the Kings of England, 1066-1399* (Oxford, 1925), ii. 424-5, 433). In his *Lancaster and York* (Oxford, 1892), i. 152, he puts the average Canterbury tenth under Henry IV as £14,500, that for York as £1,400.

to have raised about £13,500, but how much of the arrears were ever accounted for is not clear. Contemporary estimates seem to have worked on these lower figures. In July 1410 the council apparently estimated the yield of three half-tenths at some £20,000,¹ a figure closely corresponding to the average of £6,750 per half-tenth; while in March 1411, a half-tenth (apparently for Canterbury province alone)² was estimated at £6,500. Arrears may subsequently have increased the figure to over £7,000 but the later payments were not apparently regarded as significant by the council.

The value of the tenth from the province of York is not certain, since enrolments of this tax do not survive. Here the problem of allowances and exemptions was particularly acute. In the southern province, exemptions appear to have been growing—the Welsh dioceses in particular were often completely excused³—but these did not greatly affect the total figures. The northern areas found these taxes hard to pay, as the exchequer was forced to recognise. In the Carlisle diocese, for instance, the basic assessment of £48 fell in 1405–6 to £4, and how much of this was collected is not known.⁴ In Durham the allowances were less, but still significant—as much as £98 out of an assessment of £222 for each tenth.⁵ Thus the total assessment for the province of £1,843⁶ is meaningless—much less than this sum was asked for and less still was paid.

Fuller information from York survives for the special subsidies granted in 1406. The two-part subsidy of that year was expected to raise £687 from the tax of half a mark on each stipendiary chaplain and only £35 from the tenth on exempt benefices: of this £621 and £25 respectively was accounted for at the exchequer, and the costs of collecting the tax amounted to £28.⁷ The Canterbury subsidies yielded much more. In 1404, the tax on exempt benefices was assessed at £880 and yielded at least £633, while in 1406, the half mark on each stipendiary chaplain resulted in assessments of £3,849 and yields of at least £3,541.⁸

¹*Proc. Ord. Pr. C.*, i. 342; the record is fragmentary but it seems to mean that the three half-tenths, after a loan of 7,000 marks (£4,666) had been repaid, would yield to the king's use £15,333.

²*Ibid.*, ii. 10. This refers to the Canterbury half-tenth, which was to fall due on 2 June 1411. There was no clerical tax due from York at this time. It is important to note that these estimates are in fact realistic.

³*Cal. Fine Rolls 1399–1405*, pp. 225, 292; *Cal. Fine Rolls 1405–13*, pp. 35, 95, 209; *Cal. Pat. Rolls 1405–8*, p. 284; *Cal. Pat. Rolls 1408–13*, p. 216. See *Cal. Fine Rolls 1405–13*, p. 140, and list of exemptions in 1412 (*ibid.*, p. 243).

⁴E 179/60/2–7. There were no allowances specified in 1400; in 1401, they were £18; in 1406 £44; in 1409 £20; and in 1412 £10. The situation was little changed under Henry V—1413: £24 allowed; 1415: £21; 1417: £22 and 1418: £39. There is only one figure for sums collected—of the £9 18s 2d owed in 1412, £8 18s 2d was paid into the exchequer.

⁵E 179/62/9–17. The years 1404 and 1406 were again bad ones.

⁶The assessment of 1318 had reduced York's tax from £4,125 to £2,872 (Lunt, 'Clerical tenths', pp. 172–3).

⁷E 359/20; E 179/63/62–70.

⁸E 359/20. There were 35 accounts in 1404, and 42 in 1406. Collectors' expenses were £29 in 1404, £122 in 1406.

Whatever the precise details, the outlines remain clear. The special clerical subsidies of 1404 yielded virtually nothing, while that of 1406 produced just over £4,000, less than a third of the normal clerical tenth. This would seem to have provided in Canterbury approximately £13,500, and in York about one tenth of this figure—some £15,000 maximum, considerably less than in the early years of the fourteenth century.

These figures would seem to indicate that during the last years of the fourteenth century the yield of the clerical tenth had passed its maximum and was on the decline. Exemptions from the tax were increasing, and so were the costs of raising it. This decline could be offset in two ways: by increasing the frequency with which the tenth was levied or by trying to find new forms of taxes to supplement the tenth and tap the exempt riches of the Church. Under Richard II, the frequency of clerical taxation shows a slight increase, while tentative efforts were made to devise new expedients. Thus Richard during his twenty-two years took eighteen half-tenths from the clergy of the Canterbury province, together with a poll tax and a special subsidy; from the northern province he apparently took ten half-tenths during the reign. Henry IV's necessities seem to have been greater than those of his predecessor. The rate of clerical taxation was significantly increased and persistent efforts were made to spread the taxes more widely among the clergy. During his thirteen years, the first Lancastrian king took twenty-one half-tenths from the southern province as well as two special subsidies; the York clergy contributed a subsidy and thirteen half-tenths (two of them extended to exempt poor clergy) in just as many years. In this respect, the outspoken anti-clericalism both at court and in the country at large assisted the king in his attempts to make the clergy agree to further financial aid. Henry V increased the burden of taxation but abandoned all unusual forms of taxation—he took twenty-one half-tenths from the Canterbury convocation and seventeen half-tenths from York during his short reign of nine years, but there were no special subsidies from either province.¹

Such an increasing burden of taxation did not of course go unopposed. It is difficult to be sure whether resistance to clerical taxation, recorded on a number of occasions during the reign,² became any greater than it had been under earlier sovereigns, but in 1405 Archbishop Scrope was surely referring to the new subsidies when he alleged the 'insupportable burdens which fall on all ranks of the clergy' as one reason for his rebellion.³ It is perhaps significant that Henry V abandoned these new forms of taxation on the clergy, even though the frequency with which he took the tenth greatly

¹ See Ramsay, *Lancaster and York*, i. 152, 314-15; Ramsay, *History of the Revenues*, ii. 426. The same was true of lay taxation. Richard (22 years) took 17 tenths and fifteenths and two poll taxes. Henry IV (13 years) took 8 lay subsidies, three land taxes and an aid, and Henry V (9 years) took 10 and a third lay tenths and fifteenths but no special taxes.

² E.g. *Cal. Pat. Rolls* 1401-5, p. 484; *Cal. Pat. Rolls* 1405-9, p. 408; *Cal. Pat. Rolls* 1409-13, pp. 356-7, etc. Cf. *Annales Henrici*, p. 418.

³ J. Raine, *Historians of the Church of York* (Rolls Ser., 1879-94), ii. 299-302.

increased. Nevertheless, in the end the precedents set under Richard II and Henry IV continued well into the fifteenth century, for 'the priest's noble' became a common feature of clerical taxation for many years.¹

The importance of the clerical taxes to the monarchs of late medieval England did not, however, lie primarily in their yield. This was certainly less than half the normal yield of a lay fifteenth and tenth.² The real significance of these taxes compared with the lay subsidies was the relative ease with which their grant could be secured and the freedom with which they could be used. It is quite clear that parliament and the convocations worked closely together over the question of granting financial aid to the king. The timing of the grants, the amounts of the taxes and the dates on which they fell due make this apparent. New forms of lay taxes were matched by new forms of clerical taxation.³ There is, it is true, no recorded occasion under Henry IV, as under Richard II, where parliament made a grant conditional upon the grant by the convocations of a clerical tenth, yet other forms of pressure were clearly placed upon the clergy to pay their share of taxation.

Despite these facts the clerical tenth differed from the parliamentary taxes. While less productive, it was less subject to effective conditions. Although the clergy regularly granted it 'for the defence of the realm and the Church', the convocations were unlikely to demand any audit of accounts, as did the Commons. The king and his council could therefore allocate the clerical taxes more freely than the lay subsidies. The clerical tenth was, of course, frequently used for military purposes. In 1404 John of Lancaster was allocated £2,333 on the tenth in both provinces for the Scottish Marches, while in 1408 the earl of Westmorland was assigned £1,000 from the next tenth to be granted from the province of York for use on the defence of the west March.⁴ Among the payments to the prince of Wales in 1405-6 was nearly £600 from the collectors of the clerical tenth in Stafford, while in August 1404 5,000 marks from the Canterbury tenth was assigned to John Beaufort earl of Somerset for Calais.⁵ But the tenth was more usually assigned 'for the king's own use'.⁶ Throughout the reign, it was regularly used for the costs of the royal household; in 1403-4, 1408-9 and 1411-12, large sums were assigned from this source to the wardrobe.⁷ The chamber too drew substantially from the clerical tenth from 1402 to 1405, and again in 1410-11.⁸ The freedom with which the council could allocate this tax to

¹ Stubbs, iii. 147-8.

² Ramsay (*Lancaster and York*, i. 152) gives a figure of £36,000; this may be too high, but it cannot have fallen below £30,000. *Proc. Ord. Pr. C.*, i. 344-5 suggests £37,000 for a full tenth and fifteenth.

³ The major experiments in taxation, both lay and clerical, were in the years 1404-6.

⁴ *Cal. Pat. Rolls 1405-8*, p. 410; *Rotuli Scotiae* (Record Comm., 1814-19), ii. 172-3.

⁵ E 101/44/1; *Cal. Pat. Rolls 1401-5*, p. 495.

⁶ *Proc. Ord. Pr. C.*, i. 342.

⁷ Figures are in Rogers, 'Henry IV, the Commons and taxation', p. 70.

⁸ Some £900 in 1402-3; nearly £2,000 (at least) in 1404-5, and over £2,000 in 1410-11—figures derived from Receipt Rolls, E 401.

the household, without political outcry, is an indication of the importance of the clerical tenth among the revenues of the Crown.

ALAN ROGERS

APPENDIX

The following table lists all the grants of taxation made to Henry IV's government by parliament and the two convocations, together with the dates at which the various instalments fall due for collection.

Dates in bold type represent dates of grant of taxation; the other dates represent the dates when the collection of the various parts became due.¹ In some cases, a new grant of taxation was made before all the instalments of the previous grant had been raised. In these cases, the later instalments of the earlier grant have been marked with an asterisk. In all other cases, the instalments falling due refer to the immediately prior grant of taxation.

	<i>Lay tenths and fifteenths²</i>	<i>Clerical tenths: Canterbury</i>	<i>Clerical tenths: York</i>
1400:			levy of tenth granted 11 March 1399
1401:	10 March: 1 tenth & fifteenth <i>due:</i> May 1401($\frac{1}{2}$) Nov. 1401($\frac{1}{2}$)	11 March: 1 $\frac{1}{2}$ tenths <i>due:</i> May 1401($\frac{1}{2}$) Nov. 1401($\frac{1}{2}$)	26 July: 1 tenth
1402:	25 Nov.: 1 tenth & fifteenth	June 1402($\frac{1}{2}$) 27 Nov.: 1 $\frac{1}{2}$ tenths	<i>due:</i> Easter 1402($\frac{1}{2}$)
1403:	<i>due:</i> Feb. 1403($\frac{1}{2}$) June 1403($\frac{1}{2}$) Nov. 1403($\frac{1}{2}$)	<i>due:</i> March 1403($\frac{1}{2}$) June 1403($\frac{1}{2}$) 6 Oct.: half-tenth <i>due:</i> Nov. 1403($\frac{1}{2}$)	Feb. 1403($\frac{1}{2}$)

¹The date on which the grant was made differs in various sources. It is usually given as the first day of the convocation, but wherever possible the date in the table is that on which the grant was actually voted which was generally the last day of the convocation. It is also clear that the dates on which the taxes became due were to some extent artificial, especially in the northern province. On several occasions, both halves were collected together.

²From *Rot. Parl.*, except where otherwise stated.

	<i>Lay tenths and fifteenths</i> ¹	<i>Clerical tenths: Canterbury</i>	<i>Clerical tenths: York</i>
14:	March: income tax <i>due:</i> May 1404($\frac{1}{2}$) ²	*Feb. 1404($\frac{1}{2}$)	
		6 May: 1 tenth, and special subsidy <i>due:</i> June 1404 (subsidy) Nov. 1404($\frac{1}{2}$)	2 June: 1 tenth
	Nov. 1404($\frac{1}{2}$) 12 Nov.: 2 tenths & fifteenths and land tax <i>due:</i> Dec. 1404 (1, and $\frac{1}{2}$ land tax)	28 Nov.: 1 $\frac{1}{2}$ tenths	11 Dec.: 1 'extended' tenth
5:	June 1405($\frac{1}{2}$ and $\frac{1}{2}$ land tax) Nov. 1405($\frac{1}{2}$)	<i>due:</i> Feb. 1405(1) *May 1405($\frac{1}{2}$) Dec. 1405($\frac{1}{2}$)	* <i>due:</i> Jan. 1405($\frac{1}{2}$) Apr. 1405($\frac{1}{2}$) *Nov. 1405($\frac{1}{2}$)
6:		16 June: 1 tenth, and special subsidy <i>due:</i> July 1406 (subsidy) Nov. 1406($\frac{1}{2}$)	Feb. 1406($\frac{1}{2}$) 12 July: ³ 1 tenth and special subsidy
	22 Dec.: 1 tenth & fifteenth		
7:	<i>due:</i> Feb. 1407(1) 2 Dec.: 1 $\frac{1}{2}$ tenths & fifteenths	March 1407($\frac{1}{2}$) 10 Dec.: 1 $\frac{1}{2}$ tenths	<i>due:</i> March 1407($\frac{1}{2}$) Nov. 1407($\frac{1}{2}$)
:	<i>due:</i> Feb. 1408($\frac{1}{2}$) May 1408($\frac{1}{2}$)	<i>due:</i> Easter 1408($\frac{1}{2}$) Nov. 1408($\frac{1}{2}$)	10 Dec.: 1 tenth
:	Feb. 1409($\frac{1}{2}$)	Easter 1409($\frac{1}{2}$)	<i>due:</i> May 1409($\frac{1}{2}$) Nov. 1409($\frac{1}{2}$)
:	8 May: 1 $\frac{1}{2}$ tenths & fifteenths <i>due:</i> Nov. 1410($\frac{1}{2}$)	[March]: ⁴ 1 $\frac{1}{2}$ tenths <i>due:</i> 1410($\frac{1}{2}$)	23 May: ⁵ 1 tenth <i>due:</i> Nov. 1410($\frac{1}{2}$)

¹From *Rot. Parl.*, except where otherwise stated.²*Cal. Fine Rolls 1399-1405*, pp. 251-4.³There is some evidence that part of this grant was made on 18 Aug.⁴No date is available for this grant; convocation met on 17 Feb., and the grant was probably made between 5 and 11 March.⁵Variously given between 23 May and 24 July.

	<i>Lay tenths and fifteenths</i> ¹	<i>Clerical tenths: Canterbury</i>	<i>Clerical tenths: York</i>
1411:		June 1411($\frac{1}{2}$)	
	Nov. 1411($\frac{1}{2}$)		Nov. 1411($\frac{1}{2}$)
	19 Dec.: income tax	21 Dec.: ² $\frac{1}{2}$ tenth	
1412:	<i>due</i> : Feb. 1412 (income tax)	*Feb. 1412($\frac{1}{2}$)	20 Jan.: $\frac{1}{2}$ tenth
	*Nov. 1412($\frac{1}{2}$)	<i>due</i> : Nov. 1412($\frac{1}{2}$)	<i>due</i> : Nov. 1412($\frac{1}{2}$)

¹From *Rot. Parl.*, except where otherwise stated.

²19 Dec. in *Cal. Fine Rolls 1405-13*, p. 243.

The Examination of Lollards

THE WIDE DIVERSITY of beliefs held in the fifteenth century by men who were described as Lollards has become a commonplace of historical criticism.¹ Equally recognized is the fact that many of the beliefs, characterized as unorthodox by ecclesiastical authorities in the century and a half after Wyclif's death, did not originate with Wyclif; in particular, the criticism of clerical government, culminating in the designation of the pope as Antichrist, can be found in writings, clerical and lay, Latin and vernacular, before Wyclif, which writings, even if not welcomed by the hierarchy, were not the object of heretical inquisition.² It is, consequently, not always easy to determine the orthodoxy or otherwise of certain texts written in the fifteenth century: whilst episcopal registers regularly state that a case under review is one of heresy, and often designate it specifically as Lollardy, original writings do not so openly admit their affiliations. The difficulty has been particularly acute in regard to vernacular texts, where Lollardy, because of its adherents' convictions about the use of the native language, must often come in question. A good instance is the text known as 'The Pore Caitif', a series of tracts found in a number of fifteenth-century manuscripts; earlier critics assumed that it was Lollard, but this has recently, and correctly, been called in question.³ Similarly, the dialogue 'Dives and Pauper' was said by Bishop Alnwick in a heresy trial of 1429-30 to contain 'multi errores et hereses quamplures', yet its orthodoxy would seem assured by the fact that Abbot Whethamstede paid for the making of a copy of it for St. Albans.⁴ As a result of these and similar difficulties, there has developed a scepticism about the Lollard movement as a whole, concerning its reliance upon Wyclif, its prevalence and its coherence.⁵ It is therefore instructive to discover the matters on which contemporaries thought that unorthodox opinion might be revealed. Even if all the views might not be

¹ See J. A. F. Thomson, *The Later Lollards 1414-1520* (2nd edn., Oxford, 1967), pp. 239-50 and references there given.

² For some aspects of Wyclif's debt to earlier writers in his criticism and speculation, compare A. Gwynn, *The English Austin Friars in the Time of Wyclif* (1940), pp. 80-9, 249-69, and M. Wilks, 'Predestination, Property and Power: Wyclif's Theory of Dominion and Grace', *Studies in Church History*, ii (1965), 220-36; anti-clerical satire is surveyed by J. A. Yunck, *The Lineage of Lady Meed* (Notre Dame, 1963).

³ The critical views about this text are described by M. T. Brady, 'The Pore Caitif', *Traditio*, x (1954), 542-8.

⁴ Westminster Cathedral MS. B. 2.8, pp. 289, 291; *Annales Mon. S. Albani*, ed. H. T. Riley (Rolls Ser., 1870-1), ii. 269.

⁵ K. B. McFarlane, *John Wycliffe and the Beginnings of English Nonconformity* (1952), pp. 121-88; G. Leff, *Heresy in the Later Middle Ages* (Manchester, 1967), ii. 574 ff.

held by any one heretic, and even if some of the tenets can be paralleled earlier than Wyclif, what were regarded as the salient questions to be asked of a suspect?

Material most fully preserved in the register of Bishop Thomas Polton of Worcester (1426–33)¹ provides useful evidence on this matter. Two lists of questions from the register are printed below, one ‘concepti per iuristam’, the other ‘concepti per theologos’, together with procedural material concerning the methods of examination and judgment. The first list is much the more extensive; despite some minor alterations of wording, there is nothing in the second list that is not represented in the first. The omissions in the second, if the title correctly represents its origin, are more surprising: some of the questions left out might be regarded as covered by the remaining material, but, in view of the frequency with which pilgrimages appear as a matter of enquiry in ecclesiastical investigations of Lollardy, it is odd to find the topic ignored by the theologians.² The jurist’s list is, on the other hand, a searching enquiry. The first four questions should reveal any belief in remanence, as well as simple denial of transubstantiation, and detect any Donatist leanings;³ the following three, as well as investigating views on the sacraments of confession and baptism, imply scrutiny of the Wycliffite tenets about the predestinate and the *praesciti*, a topic more explicitly opened in the final question. The later questions on private religion, worship of images, pilgrimages, the legality of oaths, the status of tithes, the validity of excommunication, are all to be expected from the accounts of Lollard beliefs found in episcopal registers. Questions 13 and 14 raise the problems of dominion and the rights of the secular lord over clerical subjects, problems that are less frequently reflected in accounts of actual cases.⁴ It is interesting that both lists contain the question ‘an omnia debent esse communia’.⁵ The communistic beliefs of continental sects, including certain branches of the Hussite movement, are well known; Wyclif himself put forward the idea, but never made it one of his chief tenets, and it does not seem to have become part of the mainstream of Lollard opinion.⁶

The jurist’s list of questions appears twice again outside the Polton

¹ Worcester, St. Helen’s Record Office, Reg. Thomas Polton.

² Pilgrimages and images are probably the two topics on which most frequently unorthodox opinions were expressed by Lollard suspects; see, for instance, the series of abjurations from 1428 to 1431 recorded in Westminster Cath. MS. B. 2.8, pp. 205 ff., and those from 1498 in Salisbury Diocesan Registry, Reg. John Blythe fos. 70–79v.

³ For questioning by suspects of the validity of sacraments administered by those in deadly sin see Salisbury Diocesan Registry, Reg. Thomas Langton pt. ii fo. 25v and Guildhall, London, MS. 9531/9, Reg. Richard Fitzjames fo. 7.

⁴ For instances, however, see Westminster Cath. MS. B. 2.8, pp. 319, 354.

⁵ Appendix, I(37), II(9).

⁶ Leff, ii. 693; Wilks, *ubi supra*, p. 232; Robert Hoke in 1425 confessed to believe that ‘lordes temporell’ been holden by the lawe of god to have all thinges in comun’ (Reg. Henry Chichele, ed. E. F. Jacob (Canterbury and York Soc., 1943–7), iii. 111).

register, first as an introduction to the same procedural material in Harley MS. 2179, and secondly in use in an actual enquiry in the register of Thomas Bekynton of Bath and Wells in 1449.¹ The first, like the entry in the Polton register, is a memorandum of theoretical nature; the second shows that the theory was put into practice at least once. The procedural material that accompanies the list in the Polton register and the Harley manuscript is in itself of less interest, since, as the references to canon law show, there is little in it that was peculiar to investigations of Lollardy. To ecclesiastical authorities, however, that had not in the two centuries preceding Wyclif been much troubled by serious popular heresy, the instructions must have been useful. Two notes, parallel to parts of these instructions, appearing in the register of Richard Clifford of London (1407-21), bear this out.² The influence of the procedural material can, furthermore, be seen in the fifteenth century. Whilst only the trial of 1449 in the Bekynton register shows the use of the full set of questions (though the custom of recording only the heretical views of suspects probably disguises its use elsewhere), the form of abjuration can be traced in a number of cases. The register of Bishop Boulers at Lichfield in recording a trial in 1454 gives the Latin abjuration, omitting the sentences on books and substituting the beliefs relevant to the suspect, and the form of absolution as recorded here.³ The Bekynton register in the trial of 1449 records an English translation of the abjuration; an independent vernacular translation is also recorded in the Salisbury register of Bishop Aiscough in 1443. Many of the later abjurations from the Salisbury diocese are still recognizably in the same pattern, though some abbreviation was made in the course of time.⁴ That the pattern was not universal can be seen, for instance, from the abjuration of John Whitehorne in 1499 recorded in Morton's register at Lambeth.⁵ The appearance of the Polton type of abjuration outside the three main texts printed here suggests that the questions also are likely to have been widely available. That there was a need for such an ingeniously contrived list is clear from the inept questioning of Lollard suspects from Bristol in 1417: a group of men were asked about the articles of the faith, the ten commandments, the seven sacraments, the seven works of mercy and the seven cardinal virtues. Hardly surprisingly, their answers were orthodox, though it remains plain from the

¹ British Museum, Harley MS. 2179 fos. 157-9; *Reg. Thomas Bekynton, bishop of Bath and Wells, 1443-65*, ed. H. C. Maxwell-Lyte and M. C. B. Dawes (Somerset Record Soc., xlix-1, 1934-5), i. 120-7; Taunton, Somerset Record Office, D/D/Ba6 (Bekynton), openings 94b-96b.

² Guildhall, London, MS. 9531/4, fo. 188v; see further below pp. 149-50.

³ Lichfield Diocesan Registry, Reg. Reginald Boulers fos. 50v-51: see Appendix VII below.

⁴ Salisbury Diocesan Registry, Reg. William Aiscough pt. ii fos. 53-4; also Reg. Langton pt. ii fos. 35v-42 (1485) and Reg. Blythe fos. 70-79v (1498). The abjuration in the earlier Salisbury register, Reg. Robert Nevill pt. ii fo. 57v (1434), seems to use extracts from an English translation.

⁵ Lambeth Palace Libr., Reg. Morton pt. i fo. 194v; cf. also the abjuration of Elisabeth Sampson of Aldermanbury parish in 1509 (Reg. Fitzjames fo. 7r-v).

account that there could be little doubt of their implication in the Lollard heresy.¹

The date and origin of the lists and procedural material printed below can be traced with some confidence. In the Polton register the name *Brouns* appears at the end of the procedural material.² This led Dr. Thomson to suggest that parts of the material, at any rate, were drawn up by Thomas Brouns, Chichele's chancellor from 1426 to 1433, and that a date towards the end of 1428 would be suitable.³ Study of the text reinforces the suggestion that it derives from discussions and actions in the Canterbury convocation of 1428. Chichele's concern to improve the methods of dealing with heresy, and particularly Lollardy, reached its culmination in the July and November meetings of that convocation.⁴ On July 14 before the assembled clergy Brouns

produxit . . . in publicum et legit quemdam tractatum de modo procedendi contra hereticos ac eciam quandem formam abjuracionis errorum et heresum. Videbanturque modus procedendi et forma abjuracionis hujusmodi prelati et clero paucis additis sive mutatis satis sufficientes et validi.⁵

Following this, further discussion of the matter took place in the ensuing meetings. After the prorogation, on 15 November, it was decided to set up a committee consisting of 'certi episcopi prelatique alii et clerici tam in theologia quam jure civili et canonico doctores' to consider provisions for the better pursuit of heresy, necessary because of the daily increase ('de die in diem excrevit') of it in the Canterbury province.⁶ Brouns is not named as a member of the committee, but Polton is, together with Stafford, bishop of Bath and Wells, Morgan, bishop of Ely, and Langdon, bishop of Rochester. Lyndwood produced a report, which was discussed at some length in the following sessions.⁷ A number of pieces of evidence combine to suggest that the material below emanated from this convocation. Polton's register preserves a list of questions 'concepti per iuristam' and another 'concepti per theologos', a single lawyer but several theologians: this would obviously fit with Brouns' prior action followed by the deliberations of a committee that included theologians. It would seem unlikely that the agreement between the two lists can be accidental: much more likely is it that one represents a modification of the other. Furthermore, many of the people with whom this procedural material is associated were present at the 1428 convocations, and at the relevant sessions. Brouns has already been mentioned; Polton was a member of the committee. The bishop of Bath and Wells was also a

¹ *Reg. Nicholas Bubwith, bishop of Bath and Wells, 1407-24*, ed. T. S. Holmes (Somerset Record Soc., *xxix-xxx*, 1913-14), i. 283-90; see also the case of Christina More in 1418 in the same register, *ibid.*, p. 298.

² *Reg. T. Polton* p. 115; the name is in the hand of the preceding material.

³ Thomson, p. 225.

⁴ *Reg. Chichele*, i, pp. *xxxix-cxlv*.

⁵ *Ibid.*, iii. 187.

⁶ *Ibid.*, p. 191.

⁷ *Ibid.*, p. 192.

member, and it may be noted that Thomas Bekynton, in whose Bath and Wells register the questions were later used, was the archbishop's commissary at the convocation from 19 November.¹ Harley MS. 2179 appears to be a collection of material from Lichfield, mainly consisting of precedents for various ecclesiastical writs. The questions and the procedural texts printed below form part of the last quire of the volume; they are succeeded by a denunciation of one Thomas Stevens for heresy by Robert, bishop of London, and by various earlier statutes against heresy.² The earlier writs are predominantly in the title of the bishop of Lichfield, though a number are in that of the bishop of London; the majority of the dated texts seem to be between 1427 and 1442.³ The Lichfield connection, however, seems assured in the light of a note dated 1473 in favour of Thomas Heywood, dean of Lichfield, and of his name on the final flyleaf 'Thomas Heyuod in vtroque iure Bacallarius';⁴ it would seem likely that the volume belonged to Heywood. William Heyworth, bishop of Lichfield from 1420 to 1447, was also present at the session of 15 November 1428 when the committee was set up, though he is not himself named as a member. Heyworth's own register records no proceedings for heresy, though, as has been mentioned, Boulers at Lichfield used the abjuration and absolution here printed in 1454. Unfortunately, neither the Rochester nor the Norwich registers of Brouns himself record any heresy trials. Brouns' continued concern can, however, be seen from three items in his Rochester register: an order to seek out 'nonnulli . . . diuersi et perfidi noue secte' and a second to enquire into those preaching without licence, and thirdly a command to arrest two suspects from Strood and Rochester and to investigate the contents of their homes.⁵

The only evidence that might seem to gainsay this dating is the appearance of the two procedural notes in the London register of Bishop Clifford. Two points should, however, be borne in mind. In the first place, the notes are written into a leaf that was largely blank, by a hand other than that of the preceding or following items; their date is therefore uncertain. Secondly, the procedural material in the Polton form is, on internal evidence, declaredly not original but based on the precedents of established canonistic

¹ *Ibid.*, p. 193.

² The case of Stevens cannot, unfortunately, be dated since it is only recorded here. The bishop 'Robert' could be Braybrooke (1382-1404), whose name appears in another document on fo. 41, Fitzhugh (1431-6) or Gilbert (1436-48). Following this case are a copy of parts VIII-XII of Arundel's 1408 constitutions, and the 1409 statute of Henry IV, printed by D. Wilkins, *Concilia Magnae Britanniae* (1737), iii. 317-19, 328-9.

³ The Lichfield documents are in the name of 'William', which in the cases that are also dated must always be Bishop Heyworth (1420-47), rather than Booth (1447-52). The London documents are in the name of 'Robert', like the Stevens case.

⁴ Brit. Mus., Harl. MS. 2179 fos. 162, 163.

⁵ Maidstone, Kent County Record Office, DRc/R6 fos. 112v-113, 114v and 116v. It is particularly tantalising that in the third instance the arrest of the two suspects is not followed by a record of their trial.

practice. It is therefore quite likely that Brouns, or the committee of convocation, would have taken over material that might earlier have been found to be satisfactory. On internal evidence the reference in the Clifford notes to 'sentencia interlocutoria' envisages the situation after Chichele's enactments of 1416, when a convicted suspect might be referred to the Provincial Council.¹

Although Brouns and the convocation committee, if they are the originators of this material, took over earlier procedural instructions, they do not seem to have been much influenced by earlier lists of questions. The Council of Constance in 1417 set out a 'Modus interrogandi aliquem suspectum de heresi', of which a copy is found in Bodleian MS. e Musaeo 86, the only manuscript of the 'Fasciculi Zizaniorum'.² Similarly, continental manuscripts preserve lists of questions designed to detect Hussites or *Wycliffistes*.³ But, although some of the questions of necessity concern the same matters as the lists here printed, there is sufficient discrepancy between them for complete certainty about their independence.

Further evidence for the examination of Lollards at the same time as the Polton material is found in the courtbook of William Alnwick, bishop of Norwich, dating from the autumn of 1428 to the spring of 1431, now surviving as Westminster Cathedral MS. B.2.8.⁴ The abjurations there, both in Latin and English, are in a form very similar to that printed here, but in wording there are slight differences. This form of abjuration also seems to have had currency wider than a single diocese, since an English instance in identical form is found in a case of 1431 in the Rochester register of Bishop Langdon.⁵ It is possible that this type also goes back to the same convocation, since on 6 December 1428 the second abjuration, that of Richard Monk of Melton Mowbray, made before the high cross at St. Paul's was in this form.⁶ The Alnwick courtbook also reveals that the examination of suspects involved the use of a set of questions, though these were different from the Polton list; only in this way can the identity of views, even from men from different ends of the diocese, be explained and the similarity in parts of the ordering of those views.⁷ It seems quite clear that this Norwich list began with a

¹ Guildhall, London, MS. 9531/4, fo. 188v; *Reg. Chichele*, iii. 18-19.

² Bodl. Libr., MS. e Musaeo 86 fos. 142v-143v (original foliation, fos. 134v-135v); this part was not printed in *Fasciculi Zizaniorum*, ed. W. W. Shirley (Rolls Ser., 1858).

³ For instance Prague Univ. Libr., MS. I.F. 18, fos. 25-9, and a different set in Prague National Museum, MS. XVI E 16, fos. 263-267v. A very much more elaborate set seems to have been used in the cases discussed by H. Heimpel, *Drei Inquisitionen-Verfahren aus dem Jahre 1425* (Göttingen, 1969).

⁴ Some account of the MS. is given by E. Welch, 'Some Suffolk Lollards', *Suffolk Institute of Archaeology*, xxix (1962), 154-65.

⁵ Maidstone, Kent County Record Office, DRc/R6 fo. 94r-v.

⁶ *Reg. Chichele*, iii. 207-8.

⁷ Although the largest number of cases derive from the neighbourhood of Beccles and Bungay and from the village of Martham, one heretic came from South Creake in the north of Norfolk and another from Nayland on the southern border of Suffolk (Westminster Cath. MS. B. 2.8, pp. 293-4, 209-13).

series of questions on the sacraments: regularly the first five views concern the validity of clerical baptism and of episcopal confirmation, the necessity of oral confession to a priest, the Eucharist, and the obligation of ecclesiastical ceremony in matrimony.¹ Less invariably follow views on the priesthood and on unction. The order of the rest of the inquisition can only be guessed, but its content is clear: it had the expected questions on oaths, pilgrimages, images and tithes, on the legitimacy and validity of excommunication, on the nature of the church and the position of the pope, on the obligation to fast and the legitimacy of work on feast days. It also contained some questions not covered by Brouns' list: whether prayer was necessarily more meritorious in church than in the open field, on pacifism and legal execution, on church bells and on the value of blessed bread. Very few of the abjurations cover views other than those mentioned.² This fact also reveals how much the form of questions asked determined the amount and content of the information given: obviously, it is quite likely that, for example, these East Anglian heretics held unorthodox views about the validity of private religion (Brouns' list questions 16-18, 23), but they never seem to have been asked about this. Only one of them reported any belief related to this matter, and this merely the idea that friars were destroying the world.³ Equally, and more surprisingly, they seem not to have been asked about the legitimacy of unauthorized preaching, a topic not properly covered by the question on the priesthood. Conversely, one can see in the light of this Norwich list the defects of Brouns'; in particular, it allowed little room for the eliciting of a suspect's views on the question of the 'priesthood of all believers', a view held by the majority of the East Anglian Lollards.⁴

The comparison of these two lists, that of Brouns and that which can be deduced from Alnwick's courtbook, suggests a more general point that should be borne in mind in the consideration of Lollard confessions and abjurations. This is that, here even more than usual, use cannot be made of negative evidence. Obviously, the views confessed or abjured were held in some form by the suspect; conversely, however, it should not be assumed that a Lollard view omitted from a particular confession or abjuration was not held by the suspect. The omission may be simply the result of a failure to ask the necessary eliciting question. In a series of abjurations from one diocese in a small period of time finer analysis is, of course, possible: if one of a series admits heretical views about, for instance, unlicensed preaching, it is perhaps unlikely that a second in the same series would not have been asked the same question. But if a whole series contains no mention of a Lollard belief of some frequency elsewhere, one is probably correct in

¹ The list of errors printed by Welch, *ubi supra*, pp. 159-60, that were abjured by Robert Cavell, priest of Bungay, provides a typical instance of these first five views.

² The statements of Margaret Baxter of Martham (Westminster Cath. MS. B. 2.8, pp. 273-7) include some other views, many of them extreme; but this case is something of an oddity in the MS. since it includes accusations of others against Margaret.

³ John Burrell, reporting the view of another, *ibid.*, p. 286.

⁴ Thus Richard Fleccher of Beccles 'pat every cristen man is a prest' (*ibid.*, p. 330).

assuming that this is only because the examining authority did not question on that topic. It is also perhaps to be suspected that in some cases omissions may be due either to the difficulty of eliciting a clearly heretical or, conversely, orthodox response, or to unwillingness on the part of the examiners to become embroiled in dubious questions. The first may explain the absence of the Eucharist from some abjurations and the presence of only one, apparently rather unsatisfactory, question on the topic in the Norwich list.¹ The second may account for Brouns' inclusion of only one, fairly simple question on the subject of the Lollard belief in the church as 'congregatio omnium predestinatorum'.²

The interest of the first list of questions below remains, however, considerable. Unlike lists that derive from actual examinations, even in such a series as that in Alnwick's courtbook, its contents are not determined by the peculiarities of individual circumstances but are the best that a skilled contemporary could produce to elicit Wycliffite leanings. Even in the most favourable circumstances, the answers to these questions would only produce bare and negative statements; such is the disadvantage of the study of the Lollard movement made exclusively from documentary sources. For the reasons that lie behind the bald heretical views expressed in the bishops' registers, one must go to the English writings produced by the Lollards. But as a brief survey of the topics of Lollard belief it would be hard to parallel this jurist's list.

Notes on the edition

The edition below is taken from the Polton register since this is the fullest and, so far as is possible to assess, also the earliest version. The order of the sections, numbered I–IX for ease of reference, is that of Harley MS. 2179; in the Polton register sections I–II are set between section VIII and section IX, thus separating material that clearly belongs together.

In the footnotes are recorded the variants from the other available manuscripts, though alternation of *vel/seu* and *si/an* has not been noted. In section I three witnesses are available, Harley MS. 2179 (H) and the Bekynton register (B) as well as the Polton register (P). In item II only the Polton register has the text. For items III–IX Polton is compared with Harley MS. 2179. The Bekynton register has a text of item III, but, as this is in the vernacular, collation is impossible; since an accurate print is available³ a separate edition is not here included. The earlier version of sections VI and VIII in the Clifford register is printed separately at the end, since the number of variants from Polton makes normal collation unsatisfactory.

¹The difficulties of examination on the Eucharist can be seen from the early trials of Aston and Oldcastle recorded in the *Fasciculi Zizaniorum*, pp. 329–33, 438–44, and of William Thorpe (printed A. W. Pollard, *An English Garner* (1903), pp. 129–32).

²Leff, ii. 516 ff.; for Lollard confessions dealing with the question see Salisbury, Reg. Nevill pt. ii fo. 52v, Reg. Aiscough pt. ii fo. 53v and Reg. J. Stafford, bishop of Bath and Wells, ed. T. S. Holmes (Somerset Record Soc., xxxi–xxxii, 1915–16), i. 78.

³See p. 147, n. 1 above.

In the second bank of footnotes to sections IV–IX, a–q, are given the modern forms of the references in the text to canon and civil law and the commentators.

Abbreviations are expanded without notice and modern punctuation and capitalization have been supplied. The figures in brackets in section II refer to the equivalent questions in section I.

ANNE HUDSON

APPENDIX

Worcester, St. Helen's Record Office, Register of Thomas Polton, pp. III–15.

I [p. 113] Articuli super quibus heretici vel Lollardi debent examinari concepti per iuristam.¹

1. In primis an post consecracionem sit in altari verum corpus Christi et non substancia panis materialis² neque vini.
2. Item si sacerdos habeat potestatem conficiendi corpus Christi.³
3. Item an episcopus vel sacerdos, existens in mortali peccato, ordinat, consecrat, conficit vel baptizat.
4. Item [si]⁴ sit fundatum in euangelio quod Christus missam ordinauerit.
5. Item in casu quod homo fuerit contritus, si tunc confessio exterior sit sibi utilis.
6. Item an sit necessarium ad salutem⁵ anime confiteri sacerdoti.
7. Item an puer natus de muliere christiana indigeat baptizari in aqua, vel si baptismum in aqua factum secundum consuetudinem ecclesie sit necessarium ad salutem anime.⁶
8. Item an post Vrbanum sextum sit aliquis recipiendus in papam et si papa sit verus Christi vicarius in terris.
9. Item an sit contra scripturam sacram quod viri ecclesiastici habeant possessiones.
10. Item an aliquis prelatus debeat aliquem excommunicare nisi prius sciat ipsum⁷ excommunicatum a Deo.
11. Item an aliquis debeat dimittere predicare vel verbum Dei audire propter excommunicacionem homini.⁸
12. Item si liceat alicui diacono vel presbitero predicare verbum Dei absque auctoritate sedis apostolice siue episcopi catholici, et an liceat vnicuique indifferenter predicare verbum Dei.
13. Item an domini temporales possunt⁹ ad arbitrium suum auferre bona temporalia ab ecclesia et¹⁰ a viris ecclesiasticis.
14. Item an populares possint, siue licitum sit eis, dominos delinquentes ad suum arbitrium corrigere.
15. Item an decime debent dari personis ecclesie, vel si sint pure elemosine et si parochiani possint propter peccata suorum prelatorum ad libitum suum eas auferre.¹¹

¹ concepti per iuristam *om.H*; title *om.B*.

² materialis] panis materialis *H*.

⁴ si *om.P*.

⁶ Question after 19 following 2 *B*.

⁸ homini] hominum *B*.

¹⁰ ab ecclesia et *om.B*.

³ question after 19 *B*.

⁵ ad salutem *om.B*.

⁷ sciat ipsum] sciat eum *H*, scit ipsum *B*.

⁹ possunt] possint *B*.

¹¹ Set out as three questions *B*.

- II Articuli concepti per theologos super quibus Lollardi debent examinari.
1. An sacerdos rite consecrans conficit corpus Christi. (2)
 2. An corpus sic confectum sit in altare terrestri corpus Christi naturale et non panis naturalis neque vinum. (1)
 3. An episcopus vel sacerdos, existens in mortali, pretendens facere in forma ecclesie, ordinat, consecrat, conficit vel baptizat. (3)
 4. An missa secundum formam modernam ecclesie habeat fundamentum in euangelio Iesu Christi. (4)
 5. An sit necessarium ad salutem peccatori adulto habenti facultatem confitendi ecclesiastice quod ecclesiastice confiteatur. (6)
 6. An ex fidelibus procreato sit baptismus aque necessarius ad salutem. (7)
 7. An post Urbanum sextum sit aliquis per electionem taxatam sancte Romane ecclesie recipiendus in papam, qui sit verus Christi vicarius in terris et capud ecclesie. (8)
 8. An sit contra scripturam sacram quod clerici et viri ecclesiastici habeant possessiones rerum temporalium. (9)
 9. An omnia debent esse communia. (37)
 10. An aliquis prelatus debet aut potest aliquem excommunicare nisi prius ipsum sciat excommunicatum a Deo. (10)
 11. An aliquis debeat dimittere predicare vel verbum Dei audire propter excommunicationem homini. (11)
 12. An liceat unicuique predicare verbum Dei absque auctoritate sedis apostolice siue episcopi catholici. (12)
 13. An reges et domini temporales existentes in peccato mortali eo ipso cadunt ab omni iure et titulo ad illa regna vel dominia. (13)
 14. An populares possint libere ad suum arbitrium dominos delinquentes corrigere vel iudicare. (14)
 15. An decime dande personis ecclesie sint pure elemosine, et si parochiani possint propter peccata suorum prelatorum ad suum iudicium eas subtrahere vel auferre. (15)
 16. An aliquis ingrediens religionem priuatam, possessionatorum vel mendicantium, redditur eo ipso habilior et aprior ad obseruanciam mandatorum. (16)
 17. Si religiosi viuentes claustraliter sint de religione Christiana. (18)
 18. An sancti sint orandi et oraciones dirigende ad eos. (29)
 19. An sancta crux sit adoranda et ymagines Christi, beate virginis et sanctorum sint cultu aliquo catholice venerande. (26)
 20. Si sanctum sit et sanum menti et corporis quod vir Christianus se muniat signo crucis. (31)
 21. An Augustinus, Benedictus et Bernardus bene fecerint in eo quod habuerunt possessiones et instituerunt religiones priuatas.¹ (23)

III [Abiuracio super predictis]²

[p. 111] In Dei nomine Amen. Coram vobis etc. ego N.B. etc. parochianus

¹ Following the end of this list in the Polton register appear two notes in the same hand. The first, concerning the honour due to the shrines of saints, is said to be from the *De Ecclesiasticis Dogmatibus*, ascribed here to Augustine; it corresponds to Migne, *Patrologia Latina*, XLII, col. 1219, cap. xl. The second, on the veneration of the cross, is again ascribed to Augustine, *De Visitatione Infirmorum*; it is found in *P.L.*, XL, col. 1154, bk. II, cap. iii to 'tibi reducens'.

² Heading from H; not in P.

ecclesie N. etc. sciens et¹ intelligens et perpendens quod ante hanc horam nonnullos articulos et opiniones fidei catholice et determinacioni sancte Romane ecclesie repugnantes ten[ui], docui et affirmaui, videlicet quod venerabiles ymagines non sunt venerande seu adorande, ac eciam quod peregrinationes ad gloriosum Thomam martirem et alia loca pia non sunt licite etc., quodque eciam libros, hereses et errores continentes, temere scripsi, compilaui et penes me retinui, et scripta in eisdem approbaui et affirmaui, ac ea occasione fuissem² coram vobis reuerendissimo patre etc. iudicialiter constitutus;³ per vosque qui curam anime mee geritis satis sufficienter sum informatus et veraciter sciam articulos supradictos ac libros fuisse et esse hereticos, falsos et erroneos⁴ et aduersus doctrinam sancte Romane ecclesie temere procedentes, volens catholicam sequi doctrinam et ab omni heretica recedere prauitate ac ad vnitatem ecclesie spontanea et proua voluntate redire, attendens quod ecclesia nulli claudit gremium redire volenti, et quod Deus non vult mortem peccatoris sed potius vt conuertatur et viuat, puro corde profiteor et detestor meos heresim et errorem in premissis, ac articulos et opiniones supradictos fateor esse hereticos, peruersos, falsos, erroneos ac determinacioni sancte Romane ecclesie repugnantes. Et quia per predictam que tenui, docui, approbaui et affirmaui, exhibui me corruptum et infidelem, vt de cetero incorruptum et fidelem me ostendam ac ne similate reuersus existimere, catholicam fidem et doctrinam me obseruaturum fideliter promitto; omnemque heresim et errorem ac hereticam prauitatem, doctrinam et opinionem quamcumque aduersus catholicam fidem et determinacionem sancte Romane ecclesie se extollentem et presertim articulos supradictos abiuro. Et iuro [su]per⁵ hunc librum quod de cetero non tenebo, predicabo, dogmatizabo nec docebo hereses seu heresim, errores aut errorem, seu doctrinam peruersam contra fidem catholicam et sancte Romane ecclesie determinacionem, nec quouis alia⁶ aliquo modo pertinaciter defendam, nec docentem seu dogmatizantem per me vel⁷ interpositam personam tubeor publice vel occulte. Non ero hereticorum aut de heresi suspectorum receptor, fautor, consiliarius aut defensor; nec eis credam aut scienter associabor, nec familiaritatem aut consilium impendam, seu fauorem, dona seu munera eis non mittam, nec eos⁸ quouis modo consolabor. Libros siue quaternos ac rotulos, hereses, errores siue erronea continentes, quos me scripsisse noui et quos penes me habeo, vel in aliorum manibus esse scio, ipsosque libros huiusmodi quos me recipere seu quos ab alijs recipi,⁹ scribi seu dictari scire me continget, vobis reuerendissimo patri seu deputatis vestris cum ad vestri seu depu[ta]torum¹⁰ virorum presenciam cicius peruenire possem, absque dolo, fraude vel malo ingenio quocumque, liberabo. Et sic ab alijs receptos seu scriptos aut penes eos reconditos intimabo, necnon quoscumque hereticos de heresi, vel suspectos eorum fautores, consolatores, consiliarios et defensores, seu occulta conuenticula celebrantes a communi doctrina ecclesie presertim Romane et a communi conuersatione fidelium discrepantes, seu bonis moribus aduersantes, vobis reuerendissimo patri, seu loci eorem diocesano, celeriter nunciabo. Sicut Deus me adiuuet et hec sancta Dei Euangelia per me [corporaliter]¹¹ tacta.

Informacio ad procedendum contra hereticos.

¹sciens et] sciens H.

²fuissem om.H.

³constitutus] constituta H.

⁴erroneos] errores H.

⁵super] per P.

⁶alia] talia H.

⁷vel] vel per H.

⁸eos] eis H.

⁹recip[i] recepi H.

¹⁰deputatorum] deputorum P.

¹¹corporaliter om.P.

IV In primis, postquam hereticus est detectus vel denunciatus seu delatus episcopo vel eius vicemgerenti, scribatur denunciatio per notarium publicum. Quo facto, si poterit sciri¹ vbi hereticus moratur, arrestetur vigore statuti regij editi apud Leycestr' anno primo regis Henrici quinti,^a et scrutetur domus eiusdem incontinenter an possint reperiri libri in Anglico reprobate² leccionis.

V [p. 112] Si vero hereticus non potest personaliter apprehendi, tunc discernat episcopus, vel ipse cui commisit vices suas, ipsum personaliter citandum ad comperendum coram ipso certis die et loco, personaliter responsurum super fide. Et, si certificetur quod non potest personali citacione apprehendi quia subterfugit, discernat episcopus etc. ipsum fore citandum personaliter, si poterit apprehendi alioquin per publicum edictum in locis vbi morari consuevit et in ecclesia cathedrali diocesis. Et si non compareat, pronunciet ipsum contumacem et in penam³ contumacie sue. Si habeat testes ad probandum articulos detectos, vel⁴ ad conuincendum ipsum super heresi, recipiat eosdem. Et si sit probatum crimen heresis, condemnnet ipsum hereticum eciam abcentem per sententiam suam diffinitiuam. Si vero non habeat probationes vnde posset condemnare hereticum abcentem, in penam³ contumacie reputet eum, vehementer suspectum, et excommunicet eum. Et si steterit per annum in excommunicatione animo indurato, potest vt hereticus condemnari, quia vehemens suspicio propter contumaciam suam transit in violentam.⁵ Prima pars istius probatur 'De dolo et contumacia', capitulo *Veritatis*;^b secunda pars patet 'De Hereticis', capitulo *Cum contumacia* de hereticis, Libro Sexto.^c Et iste est modus procedendi contra hereticum abcentem quem approbat Archidiaconus 'De hereticis',^d capitulo *Vt commisi*, Libro Sexto, super verbo *procedendi*.^d

VI In comperentia modus procedendi est talis:

Nam si compereat hereticus et errorem suum vel heresim sibi impositum⁷ fateatur, vel quod habuit familiaritatem cum hereticis vel habuit libros reprobate leccionis vel libros in Anglico erronea continentes et non intimauit ordinario loci, si vult petere misericordiam et redire ad vnitatem ecclesie, tunc abiuret omnes articulos et conclusiones quos tenuit et affirmauit et⁸ generaliter omnem errorem et heresim vt supra in forma iuramenti.^e Et tunc episcopus, recepta caucione, in forma ecclesie consueta absoluat ipsum a sententia excommunicationis in quam incidebat ea occasione tenendo conclusiones peruersas; et tunc per modum sentencie interlocutorie non diffinitue iniungat penitentiam. Et ferat sententiam in hunc modum:

¹sciri] scribi P.

³penam] plenam P.

⁵violentam] violenciam H.

⁷impositum] impositum P.

²reprobate] et reprobate P.

⁴vel] valeat H.

⁶De hereticis om.H.

⁸et om.H.

^a*Rotuli Parliamentorum*, iv. 24-5.

^b*Decretales*, II. xiv. 8; *Corpus Iuris Canonici*, ed. E. Friedberg (Leipzig, 1879-81), II, cols. 296-7 (hereafter referred to as Friedberg).

^c*Sextus*, v. ii. 7; Friedberg, II, col. 1071.

^dGuido de Baysio, *Super Sexto* (Milan, 1490), fo. Pi^r, cols. 1-2.

^eSee above pp. 155-6.

VII [Absolucio ab excommunicacione et carceribus adiudicacio vsque etc.]¹
 In Dei nomine Amen. Nos etc. contra te legitime procedentes quia inuenimus te heretica dixisse et tenuisse, vel cum hereticis conuersasse vel libros reprobate leccionis scienter habuisse; vis vt asseris ex corde puro et non ficto ad sanam doctrinam et vnitatem ecclesie redire. Ideo, abiurata² per te primitus omnia heretica prauitate, ac³ prestita caucione de parendo iuri ab excommunicacionis sententia in qua ea occasione prestitisti, te absoluimus et sacramentis ecclesie restituimus. Et quia in Deum et sanctam matrem ecclesiam Romanam in ea parte temere deliquisti, te carceribus mancipandum in partem penitencie tue et saluo custodiendum vsque ad proximam prelatorum et cleri conuocacionem discreuimus in hijs scriptis. Ista probantur 'De hereticis', capitulo *Vt commissi* Libro Sexto,⁴ in verbo *obedientes* et in verbo *carceri* per Archidiaconum,⁵ et per constitutionem prouincialem que incipit *Cum inter ceteras*,⁶ et 'De penis', capitulo *Quamuis* Libro Sexto.⁷ Et si⁸ ipse cui carceri iniungitur pro penitencia efugerit⁹ carceres vt⁶ noluerit peragere penitenciam, potest dampnari vt hereticus, vt notatur 'De presumpcionibus', capitulo *Literas*.¹ Et si talis confitens errorem siue heresim recusauerit abiurare errorem siue heresim, vel si interrogatus an vult abiurare tacet, moueatur tunc sub pena iuris vt respondeat; et si non vult respondere, pronuncietur contimac et in penam contimacie condempnetur vt hereticus, probatur argumento legis Digesti 'De Interrogatoriis accionibus', libro *De etate*, paragrafo *Qui tacet*.^k

VIII Si vero comparet et negat articulos sibi obiectos, tunc recipiantur testes super articulis negatis. Et si ipse petat copiam inquisitionis et testium, si iudex videat quod⁷ non iminiat periculum, discernat sibi copiam; si tum⁸ viderit quod ex donacione copie muneret periculum propter personas testium, tunc non dabit copiam; quod totum relinquitur discrecioni iudicis. Vbi tum vult ipse hereticus exprimere nomina testium quos credit productos contra eum suspectos, tunc⁹ specificet nomina testium et causam quare habet eos suspectos⁹ puta municie. Et si iudex videat causam legitimam et probatam, detrahat iudex testimonio eorum alias ex dictis testium condempnet hereticum; probatur hec 'De hereticis', capitulo finali Libro Sexto.¹ Et sic seruat consuetudo generalis.

IX [p. 115] Si vero crimen non est plene probatum sed semiplene, tunc potest torqueri inquisitus si negauerit; vt notatur 'De hereticis', capitulo primo in Clementinis,^m et II.q.i 'Inprimis'.ⁿ

¹Heading from H; not in P.

²abiurata] abiurato H.

³ac] et H.

⁴si om.H.

⁵efugerit] offregerit H.

⁶vt] vel H.

⁷quod] et P.

⁸tum om.H.

⁹tunc . . . suspectos om.H.

¹*Sextus*, v. ii. 12; Friedberg, ii, col. 1075.

²Guido de Baysio, fo. Pi^r, col. 2.

³*Reg. Chichele*, iii. 18-19.

⁴*Sextus*, v. ix. 3; Friedberg, ii, col. 1091.

⁵*Decretales*, II. xxiii. 14; Friedberg, ii, col. 357.

⁶*Digestum*, XI. i. 11, 4; *Corpus Iuris Civilis* (Berlin, 1954), i. 182.

⁷*Sextus*, v. ii. 20; Friedberg, ii, col. 1078.

⁸*Clementines*, v. iii. 1; Friedberg, ii, cols. 1181-2.

⁹Gratian C. 2 q. 1 c. 7; Friedberg, i, cols. 439-42.

Vnde notandum est quod nunquam procedendum ad recipiendum purgacionem heretici nisi formis istis precedentibus, vbi crimen est negatum et deficientibus probacionibus; 'De purgacione canonica', capitulo *Inter sollicitudines*.^{1.º}

Nota eciam quod vehementer suspectus contra quem crimen non est probatum quia forte communicauit cum hereticis vel habuit libros in Anglico suspectos; debet abiurare omnem heresim et errorem: 'De hereticis', *Accusatus* Libro Sexto;² et in dicto² capitulo *Inter sollicitudines*,¹ et ibi Bernardus.⁴

Register of Richard Clifford, Guildhall, London, MS. 9531/4, fo. 188v.

Modus procedendi contra Lollardum comparentem.

VI Si compareat et heresym vel errorem suum fateatur, vel quod habuit familiari-tatem cum hereticis, vel habuit libros reprobate leccionis vel libros in Anglico erronia continentes et non intimaui ordinario loci, si voluerit petere misericordiam et redire ad vnitatem ecclesie, tunc abiuret omnes articulos et oppiniones quos tenuit et affirmauit, et generaliter omnem errorem et heresym sub forma etc. Et tunc episcopus, recepta caucione, in forma ecclesie absoluat ipsum a sententia excommunicacionis in quam incidebat ea occasione, et tunc per modum sentencie interlocutorie et non diffinitive iniungat penitenciam.

VIII Si non compereat et negat articulos, tunc recipiantur testes; et si petat copiam inquisitionis et testium, si non imineat periculum animarum, iudex decernet sibi copiam, nisi propter hoc esset periculum circa personas testium, tunc non dabit copiam; quod totum relinquitur discrecioni iudicis. Vbi tum vult ipse hereticus dicere testes suo inimicos, et sic suscriptos tunc specificat nomina testium et causam allegatam, et si iudex videat causam legitimam, retrahat testimonium eorum, alias ex dictis testium condempnat hereticum probatum. Hec 'De hereticis', capitulo finali Libro Sexto.

• ¹ sollicitudines] solitudines H.

² et in dicto *om.*H.

^º *Decretales*, v. xxxiv. 10; Friedberg, ii, cols. 872-4.

^º *Sextus*, v. ii. 8; Friedberg, ii, cols. 1071-2.

^º Bernard of Parma, *Summa Decretalium*, ed. E. A. T. Laspeyres (Ratisbon, 1860), pp. 258-60.

Foreign Exchange and the English Wool Merchant in the Late Fifteenth Century

THE MECHANISMS of international finance in the fifteenth century have been studied under a number of aspects. The activities of specialist financiers like the Italian merchant bankers have been described in great technical detail by Raymond de Roover,¹ and de Roover and M. Postan,² among others, have elucidated 'private financial instruments' in their different guises and traced their development. The sixteenth-century debate on the proper management of foreign exchange and the ethics of dealing in it for profit has also received attention from historians. It is therefore curious that the subject has never been adequately discussed in relation to the commercial dealings of the English businessmen who traded in the Low Countries in the late fifteenth century, as they are represented by the Cely family whose letters and memoranda now form our major source of knowledge about the organisation of trade at this period.³

That the Celys were wool merchants meant that the sterling-Flemish exchange rate played a particularly important part in their lives. Wool was still a prime commodity of international trade, and the Company of Merchants of the Staple, because of its special financial relationship with the Crown, acted as an 'organ of public finance'.⁴ The taxes on wool known as 'custom and subsidy', for instance, were levied by the government, collected in part by the Staple at Calais, and used by it to discharge standing obligations such as the maintenance of the garrison at Calais and the repayment of loans previously made to the Crown by individual staplers. Because the Staple was at Calais, and the currency in use at Calais was not, generally

¹R. de Roover, *Money, Banking and Credit in Mediaeval Bruges* (Cambridge, Mass., 1948); de Roover, *The Rise and Decline of the Medici Bank, 1397-1494* (Cambridge, Mass., 1963).

²M. M. Postan, 'Private financial instruments in medieval England', *Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte*, xxiii (Stuttgart, 1930), 26-75; R. de Roover, *L'évolution de la lettre de change XIV^e-XVIII^e siècles* (Paris, 1953).

³The Cely papers date between 1472 and c. 1490. The letters are in P.R.O., Ancient Correspondence (S.C. 1) 53 and 59, and the memoranda in Chancery Miscellanea (C 47) 37, Files 10-16. References to letters will be in the form 53/or 59/ and number of letter, and to memoranda in the form File and folio. Modern spelling and punctuation will be used for all quotations. The bulk of the memoranda remains unpublished. A selection from both letters and memoranda appeared in a rather bad edition by H. E. Malden, *The Cely Papers* (Camden 3rd ser., i, 1900). A new, complete, edition of Cely letters is to be published by the Early English Text Society.

⁴An outline of the financial arrangements between Crown and Staple is given in *Studies in English Trade in the Fifteenth Century*, ed. Eileen Power and M. Postan (1933), pp. 74-6.

speaking, sterling but the variety of local and foreign coin that was current in Flanders, the taxes at Calais were paid in Flemish money at an agreed rate of exchange. Exchange rates therefore affected the wool merchant not merely with regard to his customers from such towns as Bruges, Ghent, Mechlin, Delft and Leiden, but also in respect to his dealings with his own Company, and those dealings in turn were controlled to a large extent by agreements between the Company and the Crown.

An account of the part played by the exchange in the stapler's ordinary business activities falls into two sections. The first involves a discussion of the complex system of artificial exchange rates and arbitrary valuation of specie which the Staple maintained in its dual role of Crown agent and regulator of the commercial dealings of its individual members. The existence of this system of manipulation of rates to suit the various purposes of a semi-official body seems to have been hitherto unsuspected, or at least unexplored, despite the evidence for it scattered through the Cely papers and official documents.¹ The second section consists of an examination of the exchange loans which figured large in the financial dealings of both staplers and merchant adventurers. These private transactions appear to have been much less formal than those of the wisselaars and Italian bankers, and differed essentially from those of the speculators and operators of 'dry exchange' whose activities so exercised Thomas Wilson and his sixteenth-century contemporaries.² Nevertheless, this aspect of the Celys' business affairs has been largely neglected. R. H. Tawney's brief references in the introduction to *A Discourse upon Usury* are unreliable, and Eileen Power, in her otherwise full accounts of the wool trade, says very little on the subject.

I

The Manipulation of Exchange Rates at Calais

The Staple, or the government acting with or through the Staple, controlled exchange rates for its own particular purposes in relation to three distinct aspects of its affairs: in arranging the terms for sales of wool and fell at Calais, in collecting dues from individual members, and in paying the wages of the Calais garrison.

An arbitrary English valuation of the Flemish pound was all very well, but certain difficulties arose when there was any instability in the money market in Flanders itself. For the Low Countries, the period 1472-88 was in fact one of steady inflation (occasionally halted temporarily by a setting down of the coinage), and a series of political crises and disasters, including the defeat and death in battle of Charles the Bold in January 1477, the sudden death of the Duchess Mary in 1482, and Maximilian's subsequent efforts to stave off French invasion, and to cope with civil wars in Flanders and

¹The texts of agreements between the Staple and its customers are to be found notably in N. W. Posthumus, *Bronnen tot de Geschiedenis van de Leidsche Textielnijverheid* (6 vols., 's-Gravenhage, 1910-22), vols. i and ii and T. Rymer, *Foedera* (3rd edn., The Hague, 1739-45), esp. v. iii. 85-93.

²Thomas Wilson, *A Discourse upon Usury*, ed. R. H. Tawney (1925).

Holland. The events of 1478 furnish a good example of the difficulties inherent in the situation as far as the Staple was concerned.

Negotiations for a treaty of intercourse between England and the duchy of Burgundy had been going on since the time of Charles the Bold, and in the course of these the English had constantly urged that money in the duchy should be set down—possibly to the level of 1467 when the £ster. and the £Fl. were at nominal equality.¹ It seems likely that a reduction in Flemish valuations had been expected as early as the spring of 1477.² Since then, however, the value of the £Fl. in relation to the £ster. had declined in Flanders with increasing rapidity, while the exchange rate enforced at Calais was artificially maintained in the Flemish favour. The result was that from about March to November 1478 the Celys' accounts for Flemish money obtained in Flanders and disbursed at Calais show a regular loss of 2s. 6gr. or 2s. 8gr. in a £Fl.³ The treaty of intercourse was finally signed on 12 July 1478. At the same time Maximilian promised Dr. Coke, the English ambassador, that there would be an immediate setting down of Flemish money, with the effect that the rates in Flanders and Calais would again coincide. This is reported in a letter from a Stonor apprentice writing from Calais on Friday 24 July:⁴

Doctor Coke is come from the Duke of Burgundy to Calais, and saith by promise of the Duke to him made that the Flemish golds shall be set down and have course like as they had in the Sinxen [Whitsun] mart a year [ago]. The which, Dr Coke saith, should have been done on Thursday that last was,⁵ at Bruges, but yet we hear nothing thereof. But that same done, that the merchants might come to Calais with the money to be paid without loss, it is thought there would be great feat [i.e. a lot of trade done].

The promised ordinance, which reduced valuations by 12½ per cent, was not promulgated until 12 October.⁶ In the meantime, the effective exchange rate in Flanders had risen from 25s. 4gr. in November 1477 to 28s. Fl.⁷ Although the Celys finally report in November that money 'is amended in

¹ The expression used is 'Ipsisque monetis cum nostris ad aequalitatem reducendis' (Rymer, *Foedera*, v. iii. 86).

² See below, pp. 172-3.

³ There was no sterling available at Calais, and 'now, as the case standith at this time, there is no merchant that spend an groat in the town of Calais but they lose an halfpenny', as George Cely ungrammatically commented on 8 May 1478 (53/12). There were 12 gros or groot (*deniers gros*, abbreviated gr. or d. gr.) to the Flemish shilling and 20 shillings to the £Fl.

⁴ *Stonor Letters*, ed. C. L. Kingsford (Camden 3rd ser., xxix, xxx, 1919), ii. 63.

⁵ Thursday, 16 July. Kingsford mistakenly interpreted this as 23 July.

⁶ L. Deschamps de Pas, *Revue Numismatique*, vii (1862), 463-4.

⁷ In the 15th century an alteration in the Flemish exchange rate for the £ster. from, say, 25s. Fl. to 26s. Fl. was seen as an 'enhancement'—as indeed it did represent an increase in *rate*, although it meant an effective decrease in the value of the £Fl. 'Enhancement' meant simply 'rise', not 'improvement'. Accordingly, I shall describe such an alteration as an increase. Unambiguously, 'to set down coins' meant to call down their declared value, and so 'amend' the currency in question.

Flanders 2s. 6d. in a pound',¹ the reformation does not seem to have been successful. On 18 December a new diet was arranged for January 1479 to discuss the question further, because major difficulties had been experienced in putting the decree into practice.² In February 1479 the £Fl. was still valued at Calais at 8gr. or 10gr. less than in Flanders.³ After May 1479, however, the official Flemish exchange rate and the valuations of coin current in the Low Countries remained fairly stable until the end of 1481.

In the preceding paragraphs the question of the valuation of specie has already made an appearance, since it was inextricably linked with the exchange rate. The two matters are not, however, always identical, and in practice discussion of Staple operations must take into account not only the exchange rate (that is the number of Flemish shillings and gros to be reckoned as the equivalent of an English £) but also the valuation placed on the actual coins used in any transaction. Just as the Staple manipulated the exchange rate for special purposes, it also imposed artificial valuations on the Flemish coin used at Calais, so that for the payment of any particular debt at Calais both the sterling-Flemish exchange rate and the scale of valuation for the specie had to be stated.

At any given time the merchant in Calais was likely to be operating with at least three separate exchange rates: that obtaining in Flanders, that laid down for general commercial purposes in Calais—what might be called 'Calais market rate'—and that specified by the government for tax purposes. He would also be dealing with three different scales of valuation for specie. A particular one was set for tax purposes. A second—the current scale imposed by the government through the Staple for use in ordinary transactions at Calais—was displayed on a board hanging in the lower hall of Staple Hall.⁴ Specie at this valuation was referred to as 'money current in Calais'.

In the Low Countries, valuations of the various local and foreign coins current in the duke's dominions were promulgated by decree. These promulgations provided the standard valuations for the marts of Bruges, Antwerp and Bergen-op-Zoom where much of the staplers' financial business was done, and coin at the current Flemish valuation was therefore termed 'money current in Flanders' or 'money current at the mart'. The stapler received deferred payments for sales and 'made over' his money in coin at this prevailing valuation.

An important article by Professor Grierson⁵ has identified the coins mentioned by the Celys and provides a useful table of valuations taken from

¹ 53/21 (23 Nov. 1478).

² Rymer, *Foedera*, v. iii. 97.

³ 8gr. according to File 15 fo. 2v; 10gr. according to File 14 fo. 44.

⁴ Posthumus, ii, No. 596 art. 12: 'illi de opido Leydensi . . . solvent . . . sterlingorum pecunias vel earum veros valores, sicut estimatum est per dominum regem Anglie et suum consilium ac limitatum particulariter de auro, monetis et argento in quadum tabula in inferiori aula dicte stapule pendente'.

⁵ P. Grierson, 'Coinage in the Cely Papers', *Miscellanea Mediaevalia in Memoriam Jan Frederik Niermeyer* (Groningen, 1967), pp. 379-404 and table.

official promulgations and from the Cely papers themselves. This work also makes it possible to establish the official Flemish-sterling exchange rates prevailing in Flanders for much of the period 1472-88, because the English gold rial, worth 10s. ster., always appears in the lists of valuations with a stated value in Flemish currency. The exchange rate for the £ster. must thus be twice the valuation of the rial. It is true that the official promulgations sometimes failed to keep pace with developments in the money market, or were ineffectual in controlling them,¹ and some decrees may have been lost. Nevertheless, it is clear that the ducal proclamations constituted the recognised standard,² so that in the absence of any better criterion, 'parity' will, throughout this article, be taken to be the rate at which two English rials were currently valued in Flanders according to official decrees or to mart valuations reported in the Cely papers.

The stapler's dealings with his customers were rigidly controlled by 'rules of the Place'—the ordinances made by the Staple Council and enforced on members. The Staple fixed the price at which the various kinds of wool were to be sold (from which no divergence was permitted), inspected wool before sale, recorded shipments and sale transactions, dictated the times and conditions for the display of wool to intending purchasers, and provided an official broker in whose presence the sale took place. It also made regulations about the terms of sale, which varied in their effect from time to time. Important features of these terms concerned the giving of credit (sometimes forbidden), and the exchange rate that was to obtain in sales.

The minimum rate of exchange for 'the pound by which wool is sold'³ was apparently fixed by the Staple Council. Not only did it often diverge from the market rate in Flanders, but different levels seem to have been fixed for different customers. Thus in October 1471 the merchants of Leiden agreed with the Staple that the minimum exchange rate in their purchases over the next two years (to 25 March 1473) would be 24s. Fl. to the £ster.⁴ This rate is quoted by the Celys in sales to Leiden merchants between 1473 and 1476, while they were charging other merchants lower rates which varied between 21s. 4gr. and 23s. Fl.⁵ At the time of the agreement with Leiden, 24s. Fl. was well above parity in Flanders, which was set at 22s. 8gr. by ducal decree in October 1474,⁶ but subsequently the position was reversed, so that the staplers were still giving a rate of 24s. in late 1477,

¹ For some of the difficulties, see, for example, de Roover, *Money, Banking and Credit*, ch. viii. For failures to observe the official values, e.g. Posthumus, ii, No. 554.

² 'Ad valorem per dominum ducem, tunc existentem, ordinatum et proclamatum in nundinis existentibus cursum habentem' (Posthumus, ii, No. 554); 'na de ordinancie ende uutropinge, die dairof gedaen is, ende als men upte wissel ter plaetse, dair die marcten zijn, betailt' (*ibid.*, No. 577).

³ Rymer, *Foedera*, v. iii. 92.

⁴ Posthumus, i, No. 435.

⁵ File 11 fos. 13-18.

⁶ Grierson, table.

when the rate in Flanders had risen to 25s. 4gr.¹ In May 1478, the Calais rate was fixed at 25s. 4gr., and it remained at this level (officially, at least) through the summer, even though the mart rate rose to 28s. Fl.² Thus at the beginning of our period the Leideners, if not other merchants, were paying heavily for their wool at Calais, but as soon as Flemish rate rose above Calais rate, the staplers in fact sold at a loss in Flemish terms.

In the light of these discrepancies between Calais and Flanders rate, a new interpretation of credit sales is required. One pattern of sale was to take part of the price in cash at Calais, and obligations payable at one of the marts for the rest. In such cases the cash payment was sometimes calculated at one rate of exchange, and later instalments at another. An example is a sale made by George Cely in October 1478.³ The total price, quoted as always in sterling, came to £1,120 8s. 9d. One third of this (£373 9s. 7d.) was paid in hand in Flemish money at a rate of 25s. 4gr., making £473 1s. 7gr. The remaining two-thirds was payable in two instalments at a rate of 24s. Fl. (making £448 3s. 7gr. each), and fell due on 20 April and 20 October 1479. Taken in isolation, this suggests that George charged £24 18s. Fl. interest for credit, payable in advance. This view, however, fails to consider the Flemish exchange rate and the difference in coinage valuations. When the arrangement was made, the effective Flemish rate was still about 28s., though it had just been nominally reduced to 25s. 4gr. Any profit that the Celys may have made from coin valuations at Calais was offset by their losses on the instalments paid at the marts. When the first fell due in April 1479 (at a rate of 24s. Fl.), parity was apparently 28s. 6gr. and it so happened that no interest was being offered for exchange loans to England,⁴ so that George's 24s. Fl. would bring only 16s. 10d. ster. in London. When the last instalment was paid in October the Flemish rate had probably dropped to something like 26s. 8gr., and George may have been able to make over his receipts at a rate of about 25s. 6gr. per £ for a six-month loan, which still represented a loss of 1s. 6gr. on every £1 ster. of his original £373 9s. 7d. ster.

The assumption that the higher exchange rate in this transaction was intended as a device to cloak the taking of interest or the 'sale of time' is thus fallacious.⁵ It was not higher than parity, and the second rate of 24s. Fl. was

¹ *Ibid.* The complaint by the Netherlands envoys during the negotiations for the treaty of intercourse signed in July 1478 that the value of 'the pound by which wool is sold' had formerly been fixed by the Staple at 22s. 8gr., but had since been illegally raised to 24s. Fl. (Rymer, *Foedera*, v. iii. 92) should probably be dated at a much earlier point in the protracted discussions. It is quite clear on internal evidence that other portions of the document refer to discussions held well before 1478.

² Posthumus, i, No. 505.

³ File 11 fos. 30-31v. Cited in *Studies in English Trade*, p. 65.

⁴ These deductions can be drawn from information in 53/25.

⁵ This assumption is made in *Studies in English Trade*, pp. 63-6. In the statement that 'the longer the term allowed the more English pounds would the seller expect to obtain for the same sum of Flemish money' (*ibid.*, p. 65) the words 'English' and 'Flemish' should be transposed, but this does not affect the argument.

far below. In fact, this particular example is misleading. In the majority of cases in the Cely papers there is no special exchange rate quoted in connection with credit, and expressions like 'lent them [the balance] to pay at Cold Mart' were meant quite literally: there was no charge for credit.¹ On 4 July 1482, to take one instance, the Celys' factor sold fells to a fellowship of Delft merchants 'half ready money in hand, the rest at Cold Mart and Passe [Easter] next ensuing'.² But not content with this, the Dutch buyers wanted to be respited ('desire to borrow') £10 or £12 of the down payment until October 1482. There is no suggestion of any extra payment for this. Sometimes there was no down payment at Calais at all. And since the evidence suggests that Calais selling rate was below Flemish rate throughout much of the Cely period, so far from making a profit on credit, the stapler was in effect subsidising the purchase of his goods by giving the customer credit at his own expense. Credit seems never to have been arranged on the basis that later instalments would be paid at the rate prevailing at the mart when they fell due.

Professors Power and Postan were probably right in suggesting that the manipulation of length of credit and exchange rate in sales compensated for fluctuations in the market for wool and for the fixed price at which it was sold, although they exaggerated the extent to which prices remained unaltered.³ It is possible also that the staplers habitually viewed 'the pound by which wool is sold' as somewhat distinct from 'money current in Flanders'.⁴ But it is difficult to avoid the conclusion that at this period the staplers were frequently caught by the effects of inflation in Flanders, were unprepared to handle them, and relied vainly on 'the authorities' to provide some solution. Their own government at one time produced an abortive scheme to establish exchanges at Bruges and Calais with a rate of exchange of 24s. Fl. (at a time when the rate in Flanders was about 28s.),⁵ and was willing to press Maximilian to stabilise his monetary system, but itself increased the staplers' financial difficulties in other directions.

In its function as tax collector at Calais, the Staple acted independently of the vagaries of the Flemish money market, but not of demands from the Crown. By agreement with the Crown, the Staple collected part of the custom and subsidy dues when the wool was landed at Calais, and set its own exchange rates and its own scale of coin valuations for the payment of these and other dues, such as the 'conduct money' paid for conveying the wool

¹ Similarly, the stapler obtained free credit when he bought in England.

² 53/129.

³ *Studies in English Trade*, p. 65. Prices were the same from 1473 to the end of 1481. There seems to have been a rise of half a mark per sack in 1482, and another half mark rise in 1483. There is no evidence for selling price at Calais after 1484, and the statement that prices remained steady from 1483 to 1488 (*ibid.*, pp. 65, 71) must be a mistake.

⁴ There was certainly a clear distinction in Bruges, where wool was bought and sold by a 'wool pound' which was a money of account.

⁵ 53/119 (13 May 1482).

fleet and the occasional 'imposition' on sales. These rates were set after consultation with the king's council. Twice a year an agreement was also negotiated between the Staple and the king's council about the terms on which the Staple was to pay the garrison of Calais its next half-year's wages, which came out of the custom and subsidy collected. The Staple Council, in fixing these rates, had to steer a course between the demands of its own members and of the garrison, and ensure sufficient profit both to itself and to the Crown.¹

It is difficult to make many general statements about tax rates, because the evidence in the Cely papers is sparse and not always very clear. In the earlier years covered, tax rate was very much in the staplers' favour. In 1475, when Flemish rate can be deduced as 23s. 4gr. and Calais market rate as 22s. 8gr., tax rate was only 21s. 4gr.² But specie was valued on the equivalent scale, which virtually cancelled the effect of a low exchange rate. In 1475 the stapler theoretically gained 1s. 4gr. on the difference between tax and Calais rate (and more on the difference between tax and Flanders rate). But since he received coins at one valuation from his customers and paid them to the Staple at a lower valuation, the gain was illusory. He was paying comparatively few Flemish pounds, but it took more actual coins to make up the sum required.

The effect appears clearly in 1478, when, although other rates rose, tax rate was *reduced* from 21s. 4gr. to 20s. Fl. This meant putting the £ster. and the £Fl. at nominal equality, so that the gold coins in use were given their conventional sterling values—the scale was almost that which had obtained in Flanders as far back as 1467. About 25 August 1478 George Cely paid part of his custom and subsidy dues at Calais in coin at the stipulated values.³ Table 1 shows George's statement of the price paid for the various coins in

TABLE 1

	Scale in Flanders			Staple scale (tax)	Calais scale
	Oct. 1467	Nov. 1477	Aug. 1478	Aug. 1478	May-Sept. 1478
Rial	10/- Fl.	12/8 Fl.	14/- Fl.	10/- ster./Fl.	12/8 Fl.
Old Noble	8/8	11/-	12/-	8/4	11/-
Lion	5/2	6/8	7/6	5/-	6/8
New Crown	—	5/4	5/10	4/-	5/4
Andrew	3/6	4/6	5/-	3/2	4/6

¹The ability to make official adjustments in the exchange rate at which these dues were paid may help explain why custom and subsidy could remain the same (40s. per sack for denizens) for a comparatively long period.

²File 15 fo. 54v and uncalendared Cely account in the P.R.O.

³File 11 fo. 21r-v. Conduct money (10d. per sarpler) was included, but paid in coin valued on a different scale (that of 'money current in Calais'), and calculated at a different exchange rate.

Flanders (col. 3), and that at which they were valued by the Place (col. 4). Column 1 shows values according to Charles the Bold's ordinance of 13 October 1467,¹ and column 2 the values laid down in November 1477.² These had been adopted as 'money current in Calais' (col. 5). The Place's sterling values are all 2d. or 4d. lower than those in the 1467 scale, some values in the latter having been enhanced above the rate suggested by strict equality with sterling (for example the old noble of England should be 8s. 4gr.).

Taking the current Calais rate of 25s. 4gr. as a base, it will be seen that the staplers gained 5s. 4gr. per £ on the exchange rate imposed, but lost 6s. 8gr. per £ if they paid in crowns, and varying amounts on the other coins. The discrepancy between tax and Flanders scale was still greater.

It appears that in 1478 yet another exchange rate—24s. Fl.—was used in computing the wages of the garrison, which were then paid in coin valued on the 20s. scale.³ This seems, at least, to be the explanation of a cryptic passage in a letter from Richard Cely senior written on 1 May 1478:⁴ 'I understand we shall pay our custom and subsidy to the soldiers sterling money, 24s. for the li.'. 'Sterling money' evidently means 'coin valued on the sterling scale'. Richard continues with an explanation of the reduction in valuations:

Where we paid 21s. 4d. Flemish, we shall pay from henceforward after the rate of sterling—that is 2 rials for a li., other golds after the rate & the value of the same. . . . Beware of receiving of such golds as great loss is in at Calais.

A later pattern of exchange rates and valuations at Calais, that in 1482, emerges clearly from William Cely's letters from Calais to London. In April 1482⁵ the staplers hoped that they had extracted a promise from the king's council that henceforward the fellowship of the Staple should pay for their custom and subsidy 'as much for the pound sterling as they receive for their pound sterling'. Tax rate and current Calais rate were then identical (26s. 8gr.) but below Flanders rate. *Scales of valuation* for tax purposes and for selling purposes still differed, however: when it came to paying the next instalment of custom and subsidy, and wages, the soldiers insisted on receiving nothing but 'neming' groats at 4½gr., while the staplers were taking them for 5gr., a loss of 2s. Fl. in the £.⁶

On 29 August⁷ William reports the agreement finally made for the next half-year, by which the staplers are to pay at the same rate of 26s. 8gr., but

¹ From L. Gilliodts-van Severen, *Inventaire des archives de la ville de Bruges* (Bruges, 1871-85), v. 537-54.

² Grierson, table.

³ It was quite possible for exchange rate and scale of values for specie to differ. In Sept. 1478 the terms offered in one sale of wool (53/20) were cash down, two-thirds at 25s. 4gr. and one-third at 24s., all the money to be valued on the current scale of 12s. 8gr. for the rial (corresponding to 25s. 4gr. per £ster.).

⁴ 53/199.

⁵ 53/115 (2 May 1482).

⁶ 53/135 (13 Aug.). 'Neming groats' were double briquets (Grierson, pp. 393-4), but the reason for the Cely name is obscure.

⁷ 53/140.

in specified coins, assigned the values that they had had (? at Calais) just before the Duchess Mary died on 27 March.¹ Table 2 shows these valuations, alongside those given by the Celys as market prices in Flanders in March,² and the official rates promulgated in Flanders in July, as set out by Grierson. Five days later, on 3 September,³ William reports a new ordinance about selling rates. The exchange rate is still to be 26s. 8gr., but the buyers, like the staplers in their taxes, are to pay 'money as it was current afore the Duchess of Burgundy died'. Buyers, except those from Delft and Leiden, will have to pay the total sum due in ready money at this disadvantageous valuation.⁴

TABLE 2

	<i>Valuations in Flanders</i>		<i>Scale at Calais</i>
	<i>March 1482</i>	<i>July-Oct. 1482</i>	<i>(tax and current) Aug.-Sept. 1482</i>
Rial	—*	14/- Fl.	13/4 Fl.
Old Noble	—*	12/4	11/-
Lion	7/3, 7/4	7/2	6/8
Old Crown	5/6	5/8	5/4
Rider	5/10	6/4	5/8
Andrew	4/8	5/-	4/6
Rhenish	4/6	4/10	[4/4]

* Valuation undetermined.

II

Exchange Loan Agreements

Manipulation of the exchange rate further played an important part in the negotiation of loans, whether these took the form of 'making over' the profits from wool sales from the Low Countries to England, or of 'taking up' money at London for repayment abroad. Most of the Celys' recorded transactions differ from most of those described in detail by modern and sixteenth-century writers because they were not a matter of 'dry exchange'—despite Tawney's assertion to the contrary.⁵ Having bought wool, usually

¹ The agreements of this year are discussed in *Studies in English Trade*, pp. 78–9, but the important specifications of coin valuation are omitted.

² File 12 fo. 39; 53/106, dorse.

³ 53/142.

⁴ Buyers from Delft and Leiden had to pay half in hand on the same terms as other merchants, but could have credit for the other half, at a rate of 28s. Fl. Because of the difference in coin valuations, this credit probably worked out either free or to their advantage.

⁵ Wilson, *Discourse*, p. 81 (Tawney in any case misunderstood the term). But first disruption of trade in the Low Countries, and then increasing debt, caused the pattern of the Celys' financial dealings to change gradually after about 1483.

partly on credit, from the dealer in England, and sold it, usually partly on credit, in Calais, they often paid the wool dealer by 'taking up' money at London from a merchant adventurer, usually a 'mercier', whom they repaid in Flemish money on the continent at an agreed date and rate. They transferred, or 'made over', their surplus Flemish money from the sale of wool by giving it out at an agreed rate to the same or another adventurer for repayment at London in sterling, at an agreed date.

It is often stated that the stapler 'sold his customers' bills to merchant adventurers at a discount'. This rests on two misunderstandings, the first about the nature of the exchange transaction (to be discussed later), the second about the extent to which obligations for wool bought at Calais were treated as negotiable. Although such obligations might change hands on occasion (as when the holder was in financial difficulties), the Cely papers contain no evidence to suggest that this was common practice.¹ The Celys collected debts from their customers either in ready money or in the form of drafts on a wisselaar at Bruges or Antwerp. They then lent the surplus to an adventurer, paying him either in cash or with a similar draft on the Celys' own account with a wisselaar.²

The exchange rate in loan transactions between London and the Low Countries was expressed as so many Flemish shillings and gros for 6s. 8d. ster.—the noble as a money of account.³ It must thus be multiplied by three to give the rate per £. Since the Celys were borrowers at London and lenders at the marts, they express the rate for both borrowing and lending in terms of the number of shillings and gros that they have to pay at the mart. In borrowing at London and in lending at the mart, the lowest obtainable rate was the most favourable, because in order to allow the lender a profit the rate of exchange in loans at London was calculated at something above parity, and that in loans at the mart at something below. As a memorandum to the Royal Commission on the Exchange in 1564 explains, the extra cost in a loan made at London represented 'the hire and the interest that the deliverer doth bargain to have for delivering and letting out of his English pound a month beforehand', and the reduction at the mart is 'the hire and interest cut off' by the deliverer for letting out his Flemish money.⁴ The essential difference in the two transactions is well described by the words

¹ One supposed example from a Cely letter (Postan, 'Private financial instruments', p. 44) rests on a mistranslation.

² Cf. the transactions (receipts from customers and loans to mercers) recorded in File 11 fos. 33v-36.

³ The method of converting Flemish currency into English was to multiply the sum by the number of pence in a sterling noble (i.e. 80) and divide the result by whatever number of gros one-third of an English £ represented at the desired rate of exchange. For example, £49 10s. Fl. at 318. 6gr. per £ster. (108. 6gr. per noble) was multiplied by 80 and then divided by 126 to get £31 8s. 6d. ster. To reduce sterling to Flemish currency one multiplied by 'ye Flemish noble in pence' (i.e. the Flemish equivalent of 80d. ster.) and divided by 80: Balliol Coll. MS. 354 fo. 187/60v.

⁴ British Museum, Harley MS. 660 no. 38 fo. 110v. The document is printed in *Tudor Economic Documents*, ed. R. H. Tawney and Eileen Power (1924), iii. 346-59.

'bargain to have . . . for letting out' and 'cut off'. In making over money at the mart, the stapler discounted his client's bills, or 'cut off' his interest in advance. That is, he accepted obligations for a round sum to be paid at London in sterling (the sum 'made'). He delivered to the borrower a sum in Flemish money which was less than the proper equivalent at parity, because it was calculated at a lower Flemish exchange rate to allow for interest. For example, at the Whitsun mart at Antwerp in 1480 George Cely made over one sum of £100 ster. to be paid at London in two portions.¹ At the true rate of exchange of 26s. 8gr.² the Flemish equivalent would be £133 6s. 8gr., but George gave the borrower only £130 Fl. (that is, £100 ster. calculated at the rate of 26s. Fl. per £). The difference between £133 6s. 8gr. and £130 therefore represents interest of £3 6s. 8gr. or 2½ per cent. One could express the transaction in terms of sterling by saying that George discounted a bill with a face value of £100 ster. by paying out the equivalent of £97 10s. ster., so deducting interest of £2 10s. ster. It is absurd, however, to speak of the Celys 'selling their bills to merchant adventurers at a discount': this would mean that the lenders were paying interest to the borrowers.

In 'taking up' money at London, not discount but interest on principal was involved. As the 1564 memorandum explains, this time interest was not deducted in advance, but added to the repayment of the principal. A typical entry in the Cely papers runs: 'Item the 4th day of September [1486] we took up of William Borwell, mercer of London, at 10s. 3d. le noble, £20 ster. payable the 4th day of October next—£30 15s. Fl'.³ In other words, the exchange in this loan was calculated at 30s. 9gr. per £ (that is, 9gr. per £ above parity, which was 30s. Fl. per £, or 10s. per noble). The Celys paid £30 15s. Fl. for £30 Fl. worth of sterling money, so interest on the loan for one month was paid at a rate of 2½ per cent.

To obtain any idea of the effective interest charged in these loans it will be seen that it is necessary to estimate parity. This cannot be done in all the cases where the Cely papers give a list of loans with their terms, because the evidence is incomplete. Unfortunately, de Roover's list of rates for the period cannot be used, because it is based, not on official promulgations or bankers' records, but on quotations in the Cely papers which reflect the variety of special rates discussed above.⁴ There are only two lists of loans in the papers (one at the mart and the other at London) from dates at which parity is known so that rate of interest can be deduced. File 15 fos. 51-2 gives sums made over from Antwerp in 1480. We have already examined one loan of £100, which was to be paid in two instalments 'at four months and

¹ File 15 fo. 51v: 'Item, made with Borgan's man £100 ster. at 8s. 8d. Fl. at four months and four months'.

² *Ibid.* fo. 14: rial valued at 13s. 4gr.

³ File 13 fo. 34.

⁴ R. de Roover, *Gresham on Foreign Exchange* (Cambridge, Mass., 1949), pp. 133-4; followed by O. de Smedt, *De Engelse Natie te Antwerpen in de 16e Eeuw*, ii (Antwerp, 1954), p. 523. De Roover supposed that the rate remained at 24s. Fl. from 1453 to about 1476, and was again at that level from 1478 to 1480.

four months'.¹ The rate of interest, $2\frac{1}{2}$ per cent, was evidently low, perhaps because the sum was relatively large. The same rate recurs in a loan of £24 made to a family connection. In the other three loans recorded in this document, the exchange is 8s. 6gr. per noble, or 25s. 6gr. per £ (parity 26s. 8gr.). The loans were of £30 ster. for six months, £40 for three months, and £50 for three and four months, and all bore the same interest of $4\frac{1}{2}$ per cent. In these and other cases in which the Celys were lenders, size of loan appears to affect interest rates, but time is of less consequence.

The only comparable account for borrowings at London, for repayment at the mart, dates from September 1486.² In December George quotes parity at Bruges as 30s. Fl.³ As I have shown,⁴ one loan made at usance (for thirty days) bore interest of $2\frac{1}{2}$ per cent. In two other transactions the Celys borrowed £90 for two months and five days, calculated at a rate of 32s. Fl. (interest $6\frac{2}{3}$ per cent), and £50 for three and a half months at 32s. 6gr. (interest $8\frac{1}{2}$ per cent). In these three transactions the whole sum seems to have fallen due on the same date, and time obviously affects the interest rate. They can be compared with the figures for a loan made and repaid in England (under the guise of an exchange transaction at 32s. 3gr. per £) in 1487, when on 8 March the Celys borrowed £60 from a broker.⁵ On 5 May they repaid him 'with loss of money in the same' (that is, interest), £62 10s. ster., so that for a loan of £60 for a little under two months they paid 50s. ster. or $4\frac{1}{2}$ per cent; that is, something over 2 per cent per month.

To obtain an interest rate of $2\frac{1}{2}$ per cent the difference between lender's exchange rate and parity would have to amount to the Flemish equivalent of 2d. per noble sterling.⁶ This may explain a comment by Richard Cely senior in May 1481:

I feel by your writing that the giving of money was 9s., 9s. 2d. [Fl.], for the which ye advise me to speak at London to some man [that is, to borrow there]. That were not good, for the which I have spoke to no man for that matter.⁷

If parity was 9s. 2gr. per noble (27s. 6gr. per £) and lending rate as high as 9s. Fl. (27s. per £), the interest of $1\frac{5}{11}$ d. ster. per noble would be too small to make lending profitable.

Such narrow gaps between lending rate and parity often presaged a reduction in the official exchange rate in Flanders. In such cases, loans might

¹This apparently means that letters of payment were given for two sums of £50, both due in four months. More rarely, the repayments fell due at different dates, e.g. 'three and four months'. Compare the instance of a loan of £130 Fl. to be repaid as £50 ster. in May and £50 in June: File 11 fo. 34 (1478).

²File 13 fo. 34r-v. I omit from this one loan from a Spanish broker because part was repaid in England. The other lenders were English merchants.

³*Ibid.* fo. 28v.

⁴Above, p. 171.

⁵File 10 fo. 37.

⁶The merchants themselves thought in these terms rather than in terms of percentages.

⁷53/71.

even be made at parity, so that no interest was apparently charged. The impression that the loan was then free is, however, illusory. Such a situation probably lies behind the statement by Richard Cely senior in May 1477¹ that the borrowing rate is the same at London and at Bruges (7s. 10gr. per noble), which portends that '[Flemish] money will better this mart now', but means that at present the loss in making over sterling is prohibitive. As Thomas Wilson put the matter, from the London lender's point of view:

I do fear the fall of money, and therefore do deliver my money to another man, to have as much at 6 months after according as the money was then current when I paid it. It is usury, for that there is more to be paid than was received.²

Since the 'other man', or borrower, also anticipated a fall, rates were kept low. If the rate at parity was 27s. Fl. and a substantial drop then occurred, the borrower who had taken up sterling at that (apparently low) rate might find himself repaying at 27s. Fl. when the rate at the mart had fallen, say, to 25s., thereby losing 2s. in the £. In one type of transaction, however, the loan was made at parity for a different reason.

In April 1479, when loans at the mart were being made at 28s. 6gr., and at London at 29s., both rates unacceptable to the Celys in the normal way of affairs,³ Richard Cely entered into an agreement at London to borrow £100 ster. for four months at 28s. 6gr. On repaying it (as £142 10s. Fl.) he would lend the creditor a further £142 10s. Fl. to be repaid at London in four months as £100 ster.⁴ This type of transaction (really a straight *mutuum* with reciprocal obligation) does not seem to be mentioned by modern authorities on medieval exchange. I would term it 'double exchange'. It is true that Tawney used 'double exchange' as a synonym for *cambium et recambium*,⁵ but this is much better translated, as by de Roover, as 'exchange and rechange'.

* Such an arrangement (three are specifically mentioned in the Cely letters) was a logical development from the interdependence of staplers and mercers. The main drawback was that an alteration in the exchange rate meant a double loss: to the initial borrower if the rate fell (with corresponding gain to the lender), and to the initial lender if the rate rose. If the rate fell drastically there must have been considerable temptation to the initial borrower to default on his undertaking to lend at the original rate, which may be why, in telling George about his agreement, Richard instructs

¹ 53/7, quoted in *Studies in English Trade*, p. 66.

² *Discourse*, p. 294.

³ 53/25.

⁴ 53/27. Reprinted from the Camden edition in *Tudor Economic Documents*, ii. 134-5.

⁵ Wilson, *Discourse*, p. 75. Rechange, or 'rechange backward' (*ibid.*, p. 305) plainly means that the initial borrower takes up a second loan at a better rate to repay the first. The Cely transaction differs from this in all its essential features. Instead of borrowing twice, the initial borrower becomes a lender in the second step of the deal; the same two parties are involved throughout; and the return loan is made at the same rate as the first.

him to see that 'my letter be well paid, for I have bound me straitly for the payment thereof'.¹ It is not made clear what relationship the rate in these double transactions bore to the market rate, but presumably it was fixed at parity. If the market rate remained stable each man would then enjoy an interest-free loan when his turn came to be borrower.

III

The foregoing detailed investigations suggest a few more general reflections. The complexities of monetary dealings seem to have been accepted in a very matter-of-fact way by all the merchants concerned—an attitude for which there were good historical reasons, such as the extraordinary confusion of monetary systems that existed in the Low Countries before 1434. Foreigners buying wool at Calais often bargained about the terms offered, and sometimes argued about the valuations of coin imposed by the English, but are not on record as disputing the right of the Staple and the English government to set their own exchange rates. The staplers drove as hard a bargain as they could with their own government in London over tax rates, but similarly accepted the principle of special rates. In return, they expected a considerable amount of paternalistic regulation of trade by Staple and government.

It is scarcely a new observation that the medieval merchant was a fervent protectionist. The English wool merchant's conservatism is, however, worth further remark. He clung to a complicated dual system of wool weights (one in England and another at Calais, and neither in use elsewhere), and to old-fashioned roman numerals and ways of reckoning and had recourse to the equivalent of modern international banking only in emergency.² The whole financial system of the trade, with such features as those here discussed, the arrangements with the Crown for surplusages and prests, and the method whereby the stapler seasonally collected instalments of his debts at Antwerp or Bergen-op-Zoom, often in the form of drafts on a money-changer cum banker at Bruges, was a mixture of custom and *ad hoc* expedients.

Occasionally part of the system broke down altogether. Periods of warfare in the Low Countries meant that there were few English mercers attending the marts or anxious to take up loans there. And those merchants strangers who braved a dangerous journey to Calais to buy wool were extremely reluctant to carry money. The Staple's answer to such a situation, impractically enough, was to forbid credit and demand the total price cash down.

¹ 53/27.

² This last need not be seen primarily as mere commercial backwardness in the English. Staplers and mercers formed a close-knit community, both commercially (many mercers were also active members of the Staple), and in their social relationships, cemented by marriage and by the choice of godparents for children. Both family and guild feeling were strong, so that staplers referred to themselves as a fellowship, and addressed one another as 'brother'. Moreover, the fact that the international banking system was in the hands of foreigners did not commend it to English merchants.

When this happened in 1483-4 many staplers disregarded regulations and sold to men such as John de Lopez of Bruges, who in late 1483 bought wool to the value of £3,000, for which he gave obligations payable by another Spaniard in London.¹ By accepting payment at London the stapler bypassed all the complications of exchange rates and valuations, and of arranging exchange loans with accommodating mercers. But the practice was illegal.² Why did the Staple set its face against such a simplification, forbidding even part payment in England? Was the chief reason sheer conservatism, or the need to furnish bullion for the mint, which had formerly been an important consideration with a mint in Calais? Or did the practice of payment in England simply pose an intolerable threat to the whole delicate balance of Staple finance?

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¹ 53/191.

² An official investigation of de Lopez' dealings was threatened, but came to nothing (53/172. Cf. Alison Hanham, "Make a careful examination": some fraudulent accounts in the Cely papers', *Speculum*, xlviii (1973), 313-24).

The Tories and the Succession to the Crown in the 1714 Parliament¹

AT THE MEETING of the parliament in February 1714, the tories held 363 seats and the whigs 180. Fifteen seats were vacant because some members had been returned for two constituencies. By June, after petitions had been heard and by-elections held, the tories numbered 379 and the whigs 171, with eight seats left vacant. Altogether, 582 members sat in this parliament, of whom 121 had never sat before. Ninety-seven of these (sixty-six tories and thirty-one whigs) came in at the general election and twenty-four (twenty tories and four whigs) were seated on petition or returned at by-elections.²

The tories had a large parliamentary majority, but they were deeply divided over the succession. Queen Anne's illness in the winter of 1713-14 made the problem more acute. The tories could expect little good from the court of Hanover, who as members of the Grand Alliance against France had bitterly resented the peace of Utrecht, and the Electoral Prince was reported to have said that what had been done against the whigs had been done against himself.³ In law, opposition to the Hanoverian succession was high treason, punishable by death and loss of estates. For this reason, while its supporters were vocal and may be identified, its opponents were unable to express their views. It is clear, however, that the bulk of the tories hated the Dutch and the Germans quite as much as the whigs hated the French. Schutz, the Hanoverian envoy in London, regarded the tories as secretly committed to the Pretender, and reported in February 1714 that only a miracle could save the Hanoverian succession.⁴ Bolingbroke, in conversations with Iberville, the French envoy, on 27 February and 2 March 1714, divided the tories into four groups: (1) the Jacobites, who would accept the Pretender even if he did not change his religion; (2) the Hanoverian tories, who would not accept the Pretender even if he did change his religion;

¹ I am obliged to Professor J. H. Plumb, Professor G. S. Holmes and Dr. W. A. Speck for comments and suggestions on the contents of this article.

² These figures are mainly based on the Worsley list (see *History of Parliament 1715-54*, ed. R. Sedgwick (1970), i, App. xi). From the evidence of division lists and other contemporary material, the following classed as whigs in the Worsley list have been reclassified as tories: Benjamin Bathurst, Peregrine Bertie Lord Willoughby, John Bromley, Sir George Downing, Joseph Earle, Robert Heysham, William Heysham, James Medlycott, Sir John Parsons, George Pitt, Thomas Pitt (Old Sarum), Morgan Randyll, Samuel Shephard, Sir John Thorold and John Trelawny.

³ Archives étrangères, correspondance politique, Angleterre (afterwards abbreviated as AECP Ang.) 251 fo. 19.

⁴ British Museum, Stowe MS. 226 fo. 110.

(3) the tories, who were against the Elector of Hanover either because they feared that under him they would have no share in the government, or from fear of civil war if one nearest the succession was excluded, but who would want the Pretender to change his religion; (4) those who were tories merely from motives of self-interest.¹ Oxford, the lord treasurer, had contacts with the Pretender through the Abbé Gaultier, an unofficial French representative, while he corresponded directly with the court of Hanover and sent Electress Sophia repeated assurances of his devotion.² Bolingbroke, the senior secretary of state, dealt with the Pretender through Iberville, had no dealings with the court of Hanover, and did not hesitate to ridicule it in public.³ Ormonde, Marlborough's successor as captain-general, was a Jacobite, and corresponded with the duke of Berwick, the Pretender's illegitimate brother, unbeknown to Oxford.⁴ The lord privy seal, Dartmouth, was a moderate and tended to follow Oxford.⁵ William Bromley, the junior secretary of state, was regarded by the French as attached to the Pretender's interests, but, like Oxford, he endeavoured to keep on good terms with the court of Hanover.⁶ Sir William Wyndham, the chancellor of the exchequer, and Lord Chancellor Harcourt followed Bolingbroke. The lord president, Buckingham, was said to be the first person who would kiss the Pretender's hand, provided the Pretender could sustain himself in England.⁷ Shrewsbury, the lord chamberlain and lord lieutenant of Ireland, was courted on all sides, and sat on the fence.⁸ Early in 1714, Sir Jacob Banks, a Jacobite, was elected president of the October Club, the largest and most influential of the tory clubs.⁹

A thorn in the side of the tory administration was the existence of a relatively small but influential group of Hanoverian tories, who supported the succession in the House of Hanover. Fifty-three of them have been identified from contemporary evidence (see Appendix below). They were led in the Commons by Sir Thomas Hanmer, who was one of the chief advisers to Schutz. In the Lords, seven Hanoverian tories were voting with the whigs on matters affecting the succession, thus reducing the majority procured by the creation of twelve tory peers in 1712.¹⁰ The chief of them was Nottingham, who was disappointed at not being made Privy Seal, but

¹Hist. MSS. Comm., *Stuart MSS.*, i, pp. xlviii-xlix.

²J. Macpherson, *Original Papers* (1775), ii, 513; Brit. Mus., Stowe MSS. 227 fos. 67, 86; 241 fos. 156, 239; 242 fo. 117.

³*The Lockhart Papers* (1817), i, 460; AECF Ang. 252 fo. 80; Bolingbroke's *Letter to Sir William Wyndham* written in Sept. 1716, when he was trying to work his passage with the whig government and to dissuade Wyndham from joining in the Swedish plot cannot be taken as an accurate statement of his position in 1714.

⁴J. Fitzjames, duke of Berwick, *Mémoires* (Collection des Mémoires relatifs à l'histoire de France, 2nd ser., lxvi), p. 221.

⁵Hist. MSS. Comm., *Portland MSS.*, v, 464.

⁶AECF Ang. 251 fos. 20, 191; Brit. Mus., Stowe MS. 226 fo. 70.

⁷AECF Ang. 251 fo. 358.

⁸Hist. MSS. Comm., *Portland MSS.*, v, 433, 464.

⁹AECF Ang. 251 fos. 146-8, 195.

¹⁰*Ibid.* fo. 176.

he had few followers apart from members of his own family. According to Swift, Nottingham's abilities at 'bringing over proselytes' 'fell very short even of the Duke of Somerset's'.¹ Anglesey was said to have gone into opposition in order to get the lord lieutenantcy of Ireland, and out of disgust at Oxford refusing an Irish place to one of his relations.² Ashburnham was believed to want an earldom, and was influenced by Anglesey whose brother's widow he courted and later married. Abingdon was reported to be discontented because Oxford had made him wait for payment of his pension of £1,200 per annum. These lords, together with Carteret, Orrery and Windsor, voted with the whigs on the succession issue.³

In this situation, and despite the deep suspicion with which most of the tories regarded him, Oxford appeared optimistic at the beginning of this parliament. He had, outwardly, the two requisites of power: the favour of the closet and a majority in the house of commons. He had secured through Gaultier early in 1714 an assurance from the Pretender that he and his friends in England would support the queen's measures. Oxford had also tried to increase his majority in the Lords by asking the Pretender to instruct Lord Winchilsea to take the oaths 'so as to assist his sister's Government in Parliament', but the Pretender had replied that although he would have no difficulty in ordering Winchilsea to do so, he would not force the oath of abjuration on Winchilsea's conscience.⁴ Oxford also sought, as he told Gaultier, to conciliate the Hanoverian tories by making Sir Thomas Hanmer Speaker 'so as to silence him', and by appointing William Dawes, a leading Hanoverian, archbishop of York, despite strong opposition from Bolingbroke and Harcourt.⁵

When parliament met on 16 February 1714, Sir Thomas Hanmer was chosen Speaker unanimously. He continued in opposition, however, and was regarded as partial by most of the tories.⁶ A crushing blow to the party was the firm refusal of the Pretender to become an Anglican, expressed in a letter of 13 March to be circulated amongst his friends in England.⁷ The queen's speech the same month challenged the assertion made in Richard Steele's writings that the Pretender was to be brought in: 'there are those who have arrived to that height of malice as to insinuate that the Protestant succession in the House of Hanover is in danger under my Government'. This, however, did not lessen the fears of the court of Hanover.⁸ On 14

¹K. Feiling, *A History of the Tory Party 1660-1714* (Oxford, 1924), p. 443; J. Swift, *The History of the Last Four Years of the Queen* (1758), p. 47.

²AECF Ang. 251 fo. 263; Brit. Mus., Stowe MS. 226 fo. 14.

³AECF Ang. 251 fo. 263. Although Ashburnham had been called 'A tight Whig' in 1710 (see G. S. Holmes, *British Politics in the Age of Anne* (1957), pp. 227, 331-2), all contemporaries include him in the group of Hanoverian tory lords in 1714.

⁴AECF Ang. 261 fos. 19, 206, 254.

⁵AECF Ang. 251 fo. 311, 261 fo. 122.

⁶See 'Proceedings in the house of commons, March-June 1714', ed. A. N. Newman, *ante*, xxxiv (1961), 212, 215.

⁷Macpherson, ii. 525-6.

⁸Brit. Mus., Stowe MS. 226 fo. 236.

March a bill was introduced in the Lords to prevent foreign forces from coming into England. Oxford did not specify the object of this bill, but Bolingbroke admitted that it was designed against the Dutch troops, and the Hanoverian minister thought it was meant to deter the Elector from coming over.¹ Although it passed on its first reading, it was eventually dropped. The expulsion of Steele carried in the Commons on 20 March by 205 votes to 102 with thirteen Hanoverian Tories voting with the Whigs, was the sole achievement of the government so far. Public business was proceeding slowly, and the committee of ways and means had not even opened.² Bolingbroke wrote to Strafford on 23 March:

In both Houses there are the best dispositions I ever saw, but I am sorry to tell you, that these dispositions are unimproved; the Whigs pursue their plan, with good order, and in concert. The Tories stand at gaze, expect the Court should regulate their conduct, and lead them on, and the Court seems in a lethargy. Nothing, you see, can come of this, but what would be at once the greatest absurdity, and the greatest misfortune. The minority, and that minority unpopular, must get the better of the majority who have the sense of the nation on their side.³

To Oxford's accusation that Bolingbroke was working for his overthrow, the latter replied on 27 March:

I most sincerely desire to see your Lordship, as long as I live, at the head of the Queen's affairs, and of the Church of England party; to see the administration flourish under your direction, the quiet of the Queen's reign secured, and effectual measures taken to put those of our friends who may outlive the Queen beyond the reach of Whig resentment. These, my Lord, are the only views I have, and the only designs I am engaged in.⁴

Shortly afterwards, the House emptied as members left for the Easter holiday.⁵

Before parliament reassembled, George Lockhart, the Jacobite member for Edinburghshire, wrote:

Some of the members of Parliament, who had the Kings [the Pretender's] restoration much at heart, mett and consulted together what measures they shou'd take and prosecute at this juncture. When they reflected that the Queen, during the preceeding winter, had been extreamely ill and at the very gates of death, and that it was more than probable her days wou'd be few, they concluded no more time shoud be lost in accomplishing the Kings restoration, at least in having matters put on such a footing, as might naturally introduce and pave the way for it, when the Queen died; and for this end they thought it proper to apply directly to my Lord Bolinbrook, by letting him know, that as their patience cou'd

¹Hist. MSS. Comm., *Portland MSS.*, v. 401; Brit. Mus., Stowe MS. 226 fos. 305, 313.

²Hist. MSS. Comm., *Portland MSS.*, v. 402.

³H. St. John, Viscount Bolingbroke, *Letters and Correspondence*, ed. G. Parke (4 vols., 1798), iv. 494.

⁴Hist. MSS. Comm., *Portland MSS.*, v. 404.

⁵Brit. Mus., Stowe MS. 226 fo. 331.

last no longer, something to purpose must be quickly done, or he was not to expect that they would longer support an Administration which did more harm by dilutions and offputs, than they could by an open profess'd opposition. And they particularly complain'd, that most vacancies of the army had been hitherto supply'd with men of dangerous principles, insisting as the one thing needfull, that, with all convenient speed, the army should be purged and put under officers known to be well affected to the Crown and Church. Sir John Packington and I were directed to represent these matters to His Lordship, which we, both jointly and separately, did in as plain and ample a manner as possible. His Lordship told us he was sufficiently sensible that a great deal of precious time had been lost and many good opportunities neglected; and for his own part, he was innocent thereof, and the whole blame lay upon my Lord Oxford; what that Lord's private views might be, he could not divine, but he believ'd, he had now in a good measure convinc'd the Queen that they were not such as she wisht and approv'd of, and would terminate in her own and her familie's ruine; and he hop'd that Lord would not have it long in his power to retard business, as he had done hitherto.¹

Most of the ministers sided with Bolingbroke, but when they made representations to the queen, she merely sent Ormonde to see Oxford in order to effect a reconciliation between them.² The Hanoverian tories were also active. At a meeting in early April with the duke of Argyll, Nottingham, Anglesey and Hanmer, they agreed to co-operate with the whigs in securing the Hanoverian succession, to help to overthrow Oxford and to get the treasury put into commission, so as to have their party represented on it. They also agreed to join with the whigs in asking for the issue of a writ to enable the Electoral Prince to sit in the house of lords as duke of Cambridge.³ On 4 April, Sir Edward Knatchbull, a tory member, reported:

We had a meeting by summons from Mr. Bromley at his office where Lord T., Lord Bolingbroke, Lord Chancellor, the Speaker, and about 30 Gentlemen of the House of Commons when the Lord[s] proposed that we should exert ourselves and not let a majority in Parliament slip through our hands, and that we should meet twice a week for a mutual confidence and that any facts we wanted to be apprised of they would furnish, and that the Queen was determined to proceed in the interest of the Church, etc., and my Lord Bolingbroke farther added afterward that she would not leave a Whig in employ.⁴

Four days later, Sir John Perceval (M.P. Harwich 1727-34), wrote:

There has been a debate in ye House of Lds [5 April] ye warmest perhaps that ever was known; ye ministry carry'd indeed a vote by 11 voices, but that was thro' an amendment made to ye motion, otherwise they had lost it, and been sent to ye Tower, but tho' they were conquerors, it may be said they have got a mortal wound. The House were met to consider Her Majesty's speech and ye state of ye

¹ *Lockhart Papers*, i. 441-2.

² AECF Ang. 251 fo. 246.

³ Brit. Mus., Stowe MS. 226 fos. 35-8, 70, 342-3, 375-6, 403-7.

⁴ *Ante*, xxxiv. 213. Dr. Newman suggests that Lord T. was either the Lord Treasurer or Lord Trevor. Lord Trevor was then 'dangerously ill' (Hist. MSS. Comm., *Portland MSS.*, v. 424-5). It would have been almost unprecedented for a lord treasurer not to attend such a meeting.

nation, and my Ld Wharton [a whig] began ye debate... After much time had been spent in attacking and defending ye ministry, on acct of ye peace, and ye Pretender, wherein they had no quarter given them, my Ld Ferrers [a tory] mov'd that the Lords should come to a resolution that ye House of Hanover was not in danger. Whereupon my Ld Anglesea got up in great warmth, and said he was surpris'd after what had appear'd in ye House that my Ld should make such a motion. I am one, said he, that think it in very great danger, and I will be bold to say that your passing such a vote instead of quieting ye fears of ye nation will sink ye stocks 10 per cent and distract men... When it was found that ye question before mention'd, viz. that ye House of Hanover was not in danger were put, it would miscarry without some amendment, my Ld Chancellor proposed ye words under Her Majty's administration might be added, wch was strongly oppos'd and my Ld Anglesea said it was plain this amendment was propos'd only to skreen an ill ministry, by bringing ye Queen into question. That by this and by ye silence of ye ministry, when accused as they had been a whole day, he must declare that if he had come into ye House with an opinion that ye House of Hanover was not in danger, he now should think it so more than ever. The previous question was put, whether ye amendment should stand part of ye motion which... was carry'd by 11, and then ye main question likewise past. Not only Ld Anglesea but my Ld Cartwright [Carteret], Ld Ashburnham, Ld Orrery, Ld Abingdon and ye new Ap of York voted agst ye Court, who also spoke... There was scarce a man spoke for ye Court, but my Ld Bolingbroke defended ye ministry wth much warmth and quickness.¹

Lord Windsor, who had left his proxy with Lord Orrery, also voted against the Court.² The Lords voted an address to the queen to issue a proclamation setting a price on the Pretender's head should he land in England, despite opposition from the duke of Buckingham, the duke of Leeds, Lord Clarendon and Lord North and Grey, with an amendment leaving the queen to decide when such a proclamation should be issued. On 10 April Knatchbull noted 'a private meeting at the Secretary's and agreed to push the point of the succession with vigour, notwithstanding our Whimsical friends [the Hanoverian tories] differ from us'. Five days later, Knatchbull reported

In a Committee of the whole House on the State of the Nation with regard to the Protestant Succession, Freeman in the Chair. A long debate on the question that it was not in danger under Her Majesty's Government [moved by Knatchbull]; in the debate the question was moved to leave the Chair and insisted on so it was put and the House divided at 9 at night... For not leaving the Chair were 356, for it were 208 so that we carried it and then put the main question without division and ordered it to be reported the next day; the Speaker and many usual Tories left us. The whole number was 467 including tellers and chairman which is the greatest division was ever known except in Lord Somers impeachment... The next day it was reported and debated 4 hours and given up without a division that it was in no danger.³

¹ Brit. Mus., Add. MS. 47027 fos. 88-9; *The Wentworth Papers 1705-39*, ed. J. J. Cartwright (1883), pp. 363-5.

² AECF Ang. 251 fo. 266; *Wentworth Papers*, p. 367; Brit. Mus., Add. MS. 17677 HHH fos. 165-8.

³ *Ante*, xxxiv. 214-15.

Of the Hanoverian tories, Sir Henry Bunbury, John Ward and Sir Arthur Kaye spoke against the motion, and all the followers of Anglesey and Abingdon, as well as those of Hanmer, voted against it.¹ The whigs, who aimed at an impeachment of the ministers, were disappointed, but they scored a victory on 16 April when a supply bill was lost in committee by a casting vote.² The queen, who had been displeased at the vote to put a price on her brother's head, was enraged by Schutz's demand, made on 16 April, for a writ of summons to the Electoral Prince as duke of Cambridge. At the meeting of the Council to consider Schutz's demand, the queen and Bolingbroke wanted to refuse it, but the other ministers said this was impossible. The queen forbade Schutz the Court, and Oxford succeeded in dissuading the Electoral Prince from coming over to England.³ The government had so lost control of parliament, that a place bill steered through the Commons by the Hanoverian tory Sir Arthur Kaye—which would have cost the Court eighty votes—was rejected in the Lords by only one vote.⁴ Meanwhile, Ormonde, rightly suspecting that the whigs planned an armed coup in the event of the sudden death of the queen, had begun to remove whig officers in the Guards and other regiments and to replace them by Jacobites.⁵ In May 1714, Bolingbroke wrote to Strafford:

in the Select Committee, where estimates are prepared for the House of Commons, a demand was silently introduced of the arrears due to the Hanover troops, and Mr. Auditor Harley [Edward] attending, with three or four more, early one morning, it was ordered to be reported to the House, as an article of this year's supply. Till then I knew nothing of this transaction, and the Queen was entirely ignorant of it.⁶

Whereupon, Lockhart reported,

a great many of the Tories mett together at my Lord Bolinbrook's office, and unanimously resolv'd they woud not grant these arrears to the Hanoverian troops? And as this became no secret, the Whigs made a terrible outcry upon it, affirming that now the mask was pulld off and the Tories might as well declare for the Pretender; and they stated this matter, as a test to discover who was for or against the Hanoverian Succession. And, indeed, the Tories were likewise content and willing it past as such.

Shrewsbury was said to oppose the granting of these arrears. On 12 May the arrears for the Hanoverian troops came before a committee of the whole

¹ Brit. Mus., Add. MS. 47027 fos. 96-7; G. S. Holmes and W. A. Speck, *The Divided Society* (1967), pp. 112-13.

² *Wentworth Papers*, pp. 372-3.

³ Hist. MSS. Comm., *Portland MSS.*, v. 416, 427; Brit. Mus., Stowe MS. 226 fo. 449; F. Salomon, *Geschichte des letzten ministeriums Königin Annas von England* (Gotha, 1894), p. 284.

⁴ AECF Ang. 251 fos. 280, 293.

⁵ See C. G. T. Dean, *The Royal Hospital, Chelsea* (1950), pp. 183-91; Brit. Mus., Stowe MSS. 226 fos. 332, 373, 377, 472; 242 fo. 4; *Political State of Great Britain*, ed. A. Boyer, viii. 171; Hist. MSS. Comm., *Portland MSS.*, v. 408.

⁶ Bolingbroke, *Letters*, iv. 532.

House, when William Shippen spoke against them, supported by Sir William Whitlock, tory member for Oxford University, who called the Hanoverians 'a parcel of deserters' and was bold enough to say he hoped the House of Hanover would never succeed to the throne.

The report was thrown out by 141 votes to 128.¹ All the Hanoverian Tories voted with the minority. Oxford's son Edward Lord Harley, and William Bromley voted against granting the arrears, while Oxford's brother, Auditor Harley, and Oxford's secretary, Erasmus Lewis, voted for granting them.² A week later, Oxford had a two-hour long interview with Hanmer, whom he assured of his zeal for the Protestant succession.³ The Jacobites were so infuriated by Oxford's conduct that in ways and means on 12 June about fifty of them voted with the whigs for recommitting the supply, and carried it 152 to 101.⁴ After Wharton had laid evidence before Lord Chief Justice Parker concerning the activities of the Pretender's recruiting agents in London, Oxford in self-defence had a proclamation issued (21 June) promising £5,000 out of the queen's personal income as a reward for seizing the person of the Pretender if he landed in Britain. This was said to have been concerted between Oxford, Shrewsbury, Anglesey and Hanmer, despite opposition from Bolingbroke, Buckingham, Harcourt and Bromley. The Commons, at the instance of the whig marquess of Hertford, responded by voting on 25 June £100,000 instead of £5,000 for the capture of the Pretender, in face of opposition from Sir William Wyndham, William Bromley and Henry Campion a Jacobite.⁵ The next day, Bolingbroke brought in a bill in the Lords to make it high treason to enlist men in the service of the Pretender, which passed both Houses.⁶ Lockhart and his friends in the October Club once more went to Bolingbroke, who assured them that once Oxford was dismissed and parliament prorogued, the queen 'cou'd and wou'd so settle matters, that she wou'd be at liberty to do what she pleas'd, and being once done, the Parliament might be reassembled in a little time to ratify and approve her proceedings'. On this understanding, the money bills were voted, and parliament prorogued on 9 July.⁷

Of the struggle for power between Oxford and Bolingbroke during the queen's last illness, Swift wrote 'a ship's crew quarrelling in a storm, or while their enemies are within gunshot is a faint idea of this infatuation'.⁸ Shrewsbury was said to have finally tipped the scales against Oxford. When the queen died on 1 August, Edward Wortley, one of the whig leaders in the Commons, commented

¹ *Lockhart Papers*, i. 467-70; Brit. Mus., Stowe MS. 227 fos. 46-7; Add. MS. 47027 fos. 111-12; Add. MS. 17677 HHH fos. 220-1; *Political State*, viii. 155.

² AECF Ang. 251 fo. 322.

³ Brit. Mus., Stowe MS. 227 fos. 63-4.

⁴ *Lockhart Papers*, i. 472-3.

⁵ Holmes, pp. 86-7; Brit. Mus., Stowe MS. 227 fo. 178; *Post Boy*, 22-26 June 1714; *Cobbett's Parliamentary History*, vi, col. 1358.

⁶ *Cobbett's Parliamentary History*, vi, col. 1360.

⁷ *Lockhart Papers*, i. 470-7.

⁸ G. M. Trevelyan, *England under Queen Anne* (1930-4), iii. 288.

as the Act of Succession was yet unrepealed, it was high treason to appear openly in favour of the Pretender, and Bolingbroke, too timorous to venture a stroke of that nature, the Earl of Oxford (being pushed by Bolingbroke) had resigned his staff some days before the Queen died, and it had been put into the hands of the Duke of Shrewsbury by Lady Masham while she was in the agonies of death, who though he had hitherto gone into all the measures taken for the introduction of the Pretender, was not of a humour to venture his life or estate in his service.¹

EVELINE G. CRUICKSHANKS

APPENDIX

The Hanoverian Tories in the Commons

There is no complete contemporary list of Hanoverian tories. Their number is given as between 40 and 50 at the time of the motion on whether the succession was in danger in April 1714 by Richard Gulston, who acted as teller for the majority on the division (Bodleian Libr., MS. Rawlinson Letters 92 fos. 626-9 and K. Feiling, *A History of the Tory Party 1660-1714*, pp. 466-7). Sir John Perceval gives about 80 members as voting with the whigs on the same question (Add. MS. 47027 fo. 97), but as Geoffrey Holmes has suggested (*British Politics in the Age of Anne*, p. 502 n. 137) this figure may have included some whig followers of Argyll who were former supporters of the Court. Iberville in August 1714 gives the number of Hanoverian tories as about 39 (*The Correspondence of Sir Thomas Hammer*, ed. Sir Henry Bunbury (1838), pp. 52-3, 57).

In the list below, 53 members of the 1714 parliament have been identified as Hanoverian tories from the evidence of division lists and other information about their political careers. Most of them are classed in the Worsley list as tories who would vote with the whigs. Twelve, however, are classed by the author of that list as whigs who would vote with the tories, apparently in order to show George I that the whigs had obtained in 1715 exactly the same number of seats as the tories had obtained in 1713, whereas in fact they had gained fewer. James Barry, earl of Barrymore [I], Sir Nicholas Morice and Sir Fulwar Skipwith, classed in the Worsley list as tories who would vote with the whigs, were high tories not Hanoverian tories.

Francis Annesley
Andrew Archer

Sir Edmund Bacon
Acton Baldwyn

¹Brit. Mus., Stowe MS. 227 fo. 219; *Letters of Lady Mary Wortley Montagu*, ed. J. A. S. Wortley Mackenzie, Baron Wharnccliffe (2 vols., 1893), i. 122. Although Oxford's family regarded Shrewsbury's appointment as a setback for Bolingbroke (Hist. MSS. Comm., *Portland MSS.*, v. 480), Iberville reported that it was at Bolingbroke's instigation that Shrewsbury was made lord treasurer, and it was Lord Chancellor Harcourt who proposed it in the Council before the readmission of Somerset and Argyll (see W. E. H. Lecky, *A History of England in the 18th century* (1878-90), i. 205; *The Correspondence of Swift*, ed. H. Williams, ii (1963), p. 102; H. L. Snyder, 'The last days of Queen Anne: the account of Sir John Evelyn examined', *Huntington Libr. Quart.*, xxxiv (1970-1), 269-70). After the accession of George I, Shrewsbury, far from being treated as the saviour of the Hanoverian succession, had no influence, was dismissed, and took part in Jacobite intrigues (*Complete Peerage*, xi. 720-4).

Sir James Bateman	William Hedges
Benjamin Bathurst*	Robert Heysham*
Henry Bertie (Beaumaris)	William Heysham*
Henry Bertie (Westbury)	John Jenyns
James Bertie	Sir Arthur Kaye
Peregrine Bertie, Lord Willoughby*	Gilfrid Lawson
John Bromley*	Thomas Medlycott
Sir Henry Bunbury†	Sir Roger Mostyn
Thomas Cartwright	Sir Samuel Ongley
Charles Cholmondeley	George Pitt*
William Colemore	Robert Pitt
Clement Corrance	Thomas Pitt (Old Sarum)*
Sir William Courtenay	Peter Shakerley
Sir Thomas Crosse	Samuel Shephard*
Sir George Downing*	Richard Shuttleworth
Joseph Earle*	Edward Southwell
Thomas Edwards	Sir Edward Stradling
Edward Eliot	Sir John Thorold*
George England	John Trelawny*
Heneage Finch, Lord Guernsey	John Ward (Newton)
Ralph Freman	Andrews Windsor
James Grahme	Dixie Windsor
Sir Thomas Hanmer	Henry Worsley
Francis, Lord Hawley,	James Worsley
Baron Duncannon [I]	Christopher Wren

*Classed in the Worsley list as whigs who would vote with the tories, these were Hanoverian tories.

† See Brit. Mus., Add. MS. 47027 fos. 96-7.

Joseph Parkes of Birmingham 1796–1865: a Study in Philosophic Radicalism¹

‘ONE of the cleverest men I ever met with... He is not only profound in his profession, but skilled in political economy and quite up to the spirit of the age in practical and popular acquirements.’ Thus wrote Richard Cobden of Joseph Parkes.² ‘As well or better calculated for utility than any man I know or have heard of’ was Creevey’s comment.³ Other judgments, it is true, were less complimentary. After a brief encounter, Thomas Carlyle noted his impression of ‘a rather pleasant talking, shrewd enough little fellow with bad teeth and a knowing lightly satirical way’;⁴ and Harriet Martineau once referred to Parkes as her ‘favourite aversion’.⁵ Yet if the name of Joseph Parkes aroused comment, favourable and otherwise, among his contemporaries, to the student of the early and mid nineteenth century it may remain little known. Admittedly, Parkes was never a major figure; he moved on the fringes of the stage dominated by the great political personalities of his day. Nevertheless, his career as a lawyer of radical sympathies drawn into politics in the reform interest was a colourful one and deserves attention. It was, moreover, a career which may be divided into four fairly well defined phases; and although there are obvious dangers in relating men to movements, each of these phases holds interest and significance for the student of the philosophic radical movement—in its political and parliamentary aspects—during the first half of the nineteenth century. It is, therefore, the purpose of this article to examine these phases, both in their own right as constituting divisions in Parkes’s career, and in the context of developments within the wider movement of philosophic, or parliamentary, radicalism with which he was associated.

The first phase⁶ of Parkes’s life lasted from 1796 to 1822, and was one of upbringing, education and legal apprenticeship. Born in Warwick on 22 January 1796, Joseph was the fourth son of John Parkes, principal

¹ I should like to thank Mr. W. E. S. Thomas of Christ Church, Oxford for his most helpful comments on this article, although the interpretation of Parkes expressed in it would not always command his acceptance.

² J. Morley, *Life of Richard Cobden* (1881), i. 138.

³ *The Creevey Papers*, ed. Sir H. Maxwell (2nd edn., 1904), ii. 270.

⁴ Quoted by Jessie K. Buckley, *Joseph Parkes of Birmingham* (1926), p. 17. This is the only biography of Parkes. To that extent it is useful, but in itself it leaves much to be desired.

⁵ Quoted by J. Hamburger, *Intellectuals in Politics. John Stuart Mill and the Philosophic Radicals* (New Haven, 1965), p. 273.

⁶ See Buckley, pp. 2–13.

partner in a local worsted factory. The Parkes family were of dissenting ancestry, and Joseph's father was a trustee of the Unitarian church in Warwick. Unitarianism in religion often went with radicalism in politics, and such evidence as exists of John Parkes's political views—his support, for example, of the American colonists, and his choice of the names 'Charles James' for one of his sons—suggests that the two went together with him. Parkes's education was carried out at the grammar school at Warwick and later at a school at Greenwich; and in 1811, at the age of fifteen—not uncommonly young by the practice of the time—he entered upon his studies at the University of Glasgow. There is little record of Parkes's academic career at Glasgow, and none of his having graduated. After a further period in Warwick, in 1817 he began a legal apprenticeship in London. During the following five years, Parkes laid the basis of his future professional career, undergoing his 'laborious clerkship', as he put it. He also became acquainted with the circle which surrounded Jeremy Bentham. He was introduced by Bowring—a Unitarian—to Bentham himself, and he met George Grote, James Mill and Francis Place. These friendships were to become increasingly close with the passage of time; but more immediately, Parkes left London for Birmingham, where in 1822 he settled as a lawyer.

Parkes, then, came from a family associated with religious and political dissent; and it might be mentioned at this point that such a family environment remained with him in various ways throughout his life. For in 1824, two years after his arrival in Birmingham, he married Elizabeth Priestly, grand-daughter of Joseph Priestly, the famous eighteenth-century scientist, Unitarian and supporter of liberal causes; and his father lived until 1850, to the age of eighty-seven, and kept up his interest in politics to the end. How far these family influences affected Parkes's political outlook and development is hard to say; but what can be said is that such a family background was consistent with the espousal of political radicalism in later life. And the same is true of Parkes's education, the later stages of it being carried out at a Scottish University; it was, writes Professor Gash, 'a characteristic radical education'.¹ Again, his entry into the Benthamite circle in London between 1817 and 1822 was certainly influential in his political development. He later referred to his introduction to Grote and Mill as 'having created all the power and moral courage' he had 'brought to bear in favour of the people';² and he was to write of Francis Place as his 'political father',³ and as his 'dear old friend' from whom he learned 'much *honest and sound*' when still a 'raw miseducated boy'.⁴ In Parkes's early years, in his family background, education and Benthamite associates, there were, then, the makings of a radical; and in these respects, Parkes drew on forces and influences which were of great importance in shaping philosophic

¹ N. Gash, *Politics in the Age of Peel* (1953), p. 418.

² Quoted by Hamburger, *Intellectuals in Politics*, p. 14.

³ British Museum, Add. MS. 35149 fo. 234.

⁴ Brit. Mus., Add. MS. 35150 fols. 100-1.

radicalism in the first half of the nineteenth century. The movement derived its impetus not from social grievances and the desire to remedy them, as did much of working-class radicalism in the years after 1815; nor from the feeling that an aristocratic parliament afforded insufficient recognition to business and commercial interests, as was the case with much of the middle-class radicalism which was to emerge in the eighteen-twenties. Rather its derivation was to be found in an intellectual dissatisfaction with existing political institutions; and its aims sought, not the furtherance of any one sectional interest in society, but the advancement of the 'whole People' against the aristocracy.¹ Such ideas, it is true, tended to be somewhat abstract; and philosophic radicals were, on occasion, to be pre-occupied with political theory to the exclusion of political reality. Parkes was never to be severely academic or inflexible in his interpretation of philosophic radical doctrine or practice; and he was always to be concerned with the real world of politics. Nevertheless, his early exposure to the ideas of such men as James Mill did help to stimulate his interest in reforming causes, soon to be displayed as he entered on a new phase in his career.

The second phase in Parkes's career² lasted from 1822 to 1833, during which years he was a lawyer in Birmingham. Much of his legal business was concerned with disputed election cases, which sometimes took him outside Birmingham itself. He was, for example, employed as an election agent at Leicester in 1826 and at Stamford in 1827; and work of this kind gave him an insight into the functioning of the electoral system, which was to prove of considerable value to him in later years. Further, it was often his legal practice which drew him into a growing association with the cause of reform. In 1826, he was asked to give assistance to the opponents of the close corporation of his birthplace, Warwick; he accepted the invitation, and followed up his efforts on their behalf by publishing, in 1827, *The Governing Charter of the Borough of Warwick*, in which he was strongly critical of the unreformed corporations and urged the need for their reform. Again, Parkes was involved in his legal capacity in a number of conferences which led in 1828 to the passage of the Birmingham Improvement Bill; and in 1827-8 he was joint secretary of the committee set up to look after the interests of Birmingham in connection with the proposed transfer of the parliamentary seats of East Retford. Further, Parkes took an active interest in law reform; in 1828, he attacked the state and conduct of the Court of Requests in Birmingham, and published a pamphlet which put forward proposals for its reform. In 1828, too, he published *The History of the Court of Chancery*, a fairly substantial work intended to reveal the abuses of that court and to put forward practical suggestions for remedying them.

If there was a clear connection between Parkes's legal profession and certain of his 'reforming' activities, in other instances the connection was less direct, although his legal training was, without doubt, of considerable

¹Hamburger, *Intellectuals in Politics*, pp. 30-75.

²See Buckley, pp. 14-115.

assistance. Thus he became secretary of the provisional committee set up in 1825 to draft rules for a Mechanics' Institute in Birmingham and was energetic in propagating the scheme. When the Institute was finally established, he acted as secretary for a short period, and in 1828 as vice-president. He represented Birmingham on the committee of the Society for the Diffusion of Useful Knowledge, founded in London in 1827, and became secretary of the branch constituted in Birmingham in 1828. He supported a local campaign for a railway between Birmingham and Liverpool, and published a pamphlet refuting the canal company's objections to the project. He was also active in the dissenting and educational interests; it was, for example, largely due to his initiative that a protest was successfully made against the clause of a bill published in 1830 which would have excluded dissenters from election to the governing authority of Birmingham Free Grammar School. Moreover, he contrived to secure the postponement of the bill itself and the insertion of various alterations which provided more extensive educational facilities than those originally planned. 'Education is the grand mark now', he wrote in a letter to Place referring to the episode, 'every ultimate public object will follow as a certain consequence'.¹ In short, by the end of the eighteen-twenties, Parkes had come to be associated with a wide range of reforming or 'improving' activity; he became recognized as a leading member of a reforming group in Birmingham, disparagingly described by a local newspaper as the 'Cabal'.

It is therefore hardly surprising that Parkes became closely involved in the movement for parliamentary reform between 1830 and 1832. He was a frequent speaker at reform meetings in Birmingham and elsewhere, and was particularly active in journalism, being joint-proprietor of the *Birmingham Journal* and a regular contributor to *The Times*, the *Morning Chronicle*, *Spectator* and *Examiner*. He did not, however, fully support the establishment of the Birmingham Political Union in December 1829; he had doubts about the value, and even the validity, of such bodies,² and distrusted Thomas Attwood, the Union's leading spirit, and his schemes for currency reform.³ Nevertheless, although not a member of the Union in its early days, Parkes was willing to assist its activities. He drafted many of the resolutions passed by the Union and no doubt his 'legal mind' helped him here again; he advised its leading members on their speeches and used his extensive press connections to give publicity to its meetings.⁴

It was, indeed, because of this loose association with the Birmingham Political Union that Parkes was to become a confidant of the whig government during the Reform Bill crisis. In November 1831, when the cabinet was considering the form of a new bill, after the Lords had rejected the

¹ Brit. Mus., Add. MS. 35148 fo. 77.

² *Ibid.* fo. 78. See also J. Hamburger, *James Mill and the Art of Revolution* (New Haven, 1963), p. 15, n. 27.

³ Hamburger, *James Mill*, p. 274, n. 20.

⁴ *Ibid.*, pp. 58-9.

previous one in October, Althorp wrote confidentially to Parkes, asking his opinion of the popular reaction to certain changes: 'from your position', he wrote, 'you can give me the best information as to the feelings of the Unionist Reformers'.¹ Moreover, Parkes soon became involved in an episode arising from the plans of the Birmingham Political Union to organize itself on a semi-military basis. Such plans may have been designed to frighten the government into re-introducing, without alteration, the bill rejected by the Lords in October 1831; and they did expose the delicate relationship which existed between the Political Unions and the government.² Grey disliked the Unions, but the evidence which they provided of organized reforming opinion was an undeniably useful weapon at the government's disposal for convincing the king, the Lords and even its own lukewarm supporters of the need for reform. If the government came out against the Unions, as it was being urged to do, it would destroy a source of support; but should the Unions undertake illegal measures, the government would be forced to suppress them. This was exactly the difficulty presented by the plans of the Birmingham Political Union; and to resolve it, Althorp wrote to Parkes on 18 November 1831. Again he wrote confidentially, asking Parkes to do the government 'a great service and in so doing to do a great service to the cause of Reform'. This was to persuade Attwood not to proceed with the military project, which, the government was informed, was 'clearly illegal'. Otherwise, action would have to be taken to prevent Attwood from 'having a regularly organized force at his command', and this would bring the government into conflict with the Unions. 'I need not tell you', Althorp continued his letter, 'that if once that is the case, we may or may not continue to exist as a Government but one thing is certain—the Reform bill will be lost and as a necessary consequence, we go out too'. Althorp ended the letter by impressing upon Parkes that he must advise Attwood on his own account; 'as of course it would not be fitting for a member of the Government to be known to have taken any indirect means to prevent proceedings which approach so nearly to levying war against the King, according to its legal interpretation'.³

Parkes thus adopted the role of unofficial intermediary between the government and the Birmingham Political Union. On 20 November 1831, he visited Althorp in London to report on his activities. Again, the circumstances were somewhat conspiratorial. Althorp wrote to Grey: 'it is not known that Parkes has come up to town and my servants did not know his name as he sent in a letter instead of a card to me, so that I trust it will not be known that I have had an interview with him'. But the interview, wrote Althorp, had been 'most satisfactory'; Parkes had explained that, as soon as he received Althorp's letter, he told Attwood that he considered the military

¹ London, University College Library (UCL), Parkes MSS. Althorp to Parkes, 6 Nov. 1831.

² For an examination of this relationship, see H. Ferguson, 'The Birmingham Political Union and the government', *Victorian Studies*, iii (1960), 261-76.

³ UCL, Parkes MSS. Althorp to Parkes, 18 Nov. 1831.

proceedings illegal, and likely to embarrass the government. Attwood, according to Parkes, was 'very reasonable', and it was finally agreed that the plans should be dropped at the next meeting of the council of the Union. Parkes himself appeared before this meeting and stated the objections which he saw to the plans; and they were abandoned. Once more, it would seem, Parkes's legal expertise was helpful; as Althorp told Grey: 'Parkes himself is not a member of the Union, but is much consulted by them, and has great influence as an Attorney, they having no Attorneys among them'.¹

Thus the government was saved from the necessity of prosecuting the Union, although it did issue a proclamation, warning that political associations must not organize themselves along military lines, nor must they set themselves up as a civil authority. Parkes earned the gratitude of Althorp for his co-operation. Althorp wrote to him on 24 November 1831: 'I have only time to write you a line to thank you for the good service you have done. I really consider it at this moment invaluable'.² Parkes himself seems to have felt a certain anxiety to gain the approval of his fellow radicals of his action: 'I hope *you* think I did the Union matter admirably'³ he wrote to Grote. Again, he had fears that the proclamation might weaken the Unions, and was at pains through the press to correct any impression that it declared the Unions illegal.⁴ But despite such misgivings, he himself was satisfied that he had done right to 'dole out a little Government doctrine', as he put it; but for his action, he claimed, 'a far worse Proclamation would have come out'.⁵

As the crisis over the Reform Bill developed, Parkes's relations with the Birmingham Political Union grew rather closer. When the third Bill passed the Commons in March 1832, and all depended on the Lords, the demand for a creation of peers became increasingly strident. Parkes was energetic in raising money to meet the expenses of a large meeting called by the Council of the Union for early May, at which thirty other Political Unions were to be represented; 'the "getting steam up" here... will cost a mint of money', he told Place.⁶ At the meeting itself, he proposed a resolution expressing confidence that the king would create peers, but warned their lordships that if they were once again obstructive, 'the Unions will treble aye quadruple in number... I am one of those who can easily... foresee a violent revolution in this country'.⁷ Moreover, when William IV refused to create peers, and accepted the resignation of the whigs in May, Parkes finally joined the Union, and was one of its members appointed to carry a petition to London, urging the reinstatement of Grey's ministry. While in

¹ Althorp, Spencer MSS. Althorp to Grey, 20 Nov. 1831. I quote from the Spencer MSS. by permission of the Rt. Hon. the Earl Spencer.

² UCL, Parkes MSS. Althorp to Parkes, 24 Nov. 1831.

³ Brit. Mus., Add. MS. 35149 fo. 128 (copy).

⁴ Thus he wrote to Place: 'it is of great importance that it should not get abroad that the Proclamation *puts down* Unions' (Hamburger, *James Mill*, p. 95).

⁵ Brit. Mus., Add. MS. 35149 fo. 128.

⁶ Brit. Mus., Add. MS. 27792 fo. 305.

⁷ Quoted by Buckley, p. 98.

London during the 'Days of May', he kept up his menacing talk, telling Le Marchant, principal secretary to Brougham, that 'it was with extreme difficulty that the people could be kept from coming to extremities'.¹ Again, he wrote to Young, secretary to Melbourne at the Home Office, requesting a frank with which to send a letter to Sir William Napier, asking him to lead an insurrection. He was also active at meetings in Place's house, at which discussions were held with deputations from other towns, and plans were aired for armed resistance, should Wellington succeed in forming a ministry. He assisted Place in coining the slogan 'To stop the Duke, go for Gold'.²

When, however, it became clear that Wellington could not form a ministry, Parkes made a swift journey back to Birmingham. Arriving early on the morning of 16 May, he found Attwood's family—as he told Mrs. Grote—'expecting warrants for high treason or sedition'. The news of events in London was received with 'grateful sensations'; and after a public meeting in Birmingham, Parkes returned to London with another pro-reform deputation.³ On 22 May, with the whigs back in office, and the future of the bill assured, Parkes was present at a dinner at the Mansion House given by the lord mayor of London; he was, indeed, called upon to reply to a toast to 'Mr. Parkes and the Birmingham reformers'.⁴

During this second phase of his career—ever since his arrival in Birmingham in 1822—Parkes had been a zealous advocate of and enthusiastic worker for reform. His work was of a highly professional and even technical nature, and this was, indeed, in keeping with philosophic radicalism: with its strong intellectual overtones and lack of attachment to any particular sectional interest. Yet while Parkes's activities in the eighteen-twenties bear many of the marks of the professional, Benthamite radical, concerned to attack the aristocracy on all fronts, they also reveal him in the role of assisting and making common cause with radicals of a different background and nature. Parkes's legal training and practice made him a valuable ally to local businessmen, anxious to destroy ancient aristocratic institutions and to advance forward-looking projects; and his legal expertise was an asset to the Birmingham Political Union, with its elements of working-class and middle-class radicalism. Even now, Parkes was beginning to show his ability and willingness to straddle various radical and reforming movements and to join with others, whose origins lay outside philosophic radicalism, in the furtherance of common objectives.

Parkes's contribution to the struggle for parliamentary reform, has, however, been interpreted in a more specific manner by Professor Joseph Hamburger.⁵ He has argued that in the Reform Bill crisis, Parkes followed

¹ *Three Early 19th Century Diaries*, ed. A. Aspinall (1952), p. 258. Also quoted by Hamburger, *James Mill*, p. 109.

² Hamburger, *James Mill*, pp. 101-2.

³ Brit. Mus., Add. MS. 27794 fos. 161-2 (copy).

⁴ Buckley, pp. 109-10.

⁵ Hamburger, *James Mill*, *passim*.

the plans formulated by James Mill, the purpose of which was to influence the government and achieve reform by the 'language of menace' and the 'tactics of intimidation'. The impression would thus be created of a popular demand for reform so urgent and overwhelming that the government might ignore or disappoint it only at the risk of provoking serious public disorder. Some of Parkes's activities may, indeed, be seen in this light. A regular theme in his speeches and contributions to the press was the danger of violence breaking out if reform were not granted; and as has been seen, much of his talk and action had a strong ring of menace and intimidation.¹ Yet it is open to question how far Parkes deliberately and consciously adopted Millite ideas in the crisis. His letters at the time certainly reveal the manipulative and propagandist part which he played; but they also suggest that, rather than conforming to a preconceived plan, this part was opportunistic in nature, exploiting circumstances as they arose. Further, it is difficult to fit all of Parkes's activities into an interpretation which places so much emphasis on the pressure which he brought to bear on the government. The most notable exception to this was the occasion on which he persuaded the Birmingham Political Union on behalf of the whig government to drop its plan for military organization. Hamburger comments on this episode: '[Parkes] used the opportunity to shape a particular image of public feeling in Althorp's mind, while Althorp, trusting him, saw him in an altogether different role'.² But Parkes's concern to justify his action to his fellows suggests that he himself was primarily conscious of his role as the government's unofficial agent, charged with the responsibility of keeping the Birmingham Political Union in line with the whigs; and his success in justifying it to himself would point to the same conclusion. Thus Hamburger's interpretation, although an interesting and fresh one, is open to question at various points. Again, even allowing that •Parkes did, on occasion, indulge in menacing talk and intimidating action—whether or not this was part of a Millite plan—it is, as Hamburger admits,³ extremely difficult to establish exactly how influential a part this played in achieving reform. It was one element in a highly complex situation: but only one, and how large a one is impossible to say.

After the final achievement of parliamentary reform in June 1832, Parkes's intentions appear to have been to retire from political life. He resigned his brief membership of the Birmingham Political Union in August 1832, and in January 1833 wrote to Place:

who the devil is to go on with this public work and his private duty? I can't. I am determined to lie *fallow* as much as I consistently can; it is impossible to keep up the devotion we have had here for 2 years. I had rather to go the Swann River—or even Botany Bay—than go thro' the sacrifices of the last 18 months. I have read

¹ See above, pp. 191–2.

² Hamburger, *James Mill*, p. 268.

³ *Ibid.*, p. 281.

no books; I have not slept half enough; I have collected no money; I have neglected my business...I don't mean...to give so much time to the politician's plough.

Here one must perhaps allow for an element of exaggeration, and, despite his disclaimer for the future, Parkes added: 'I will do my duty nevertheless. We have buried the Tories, and if the Whigs will not do right the Sexton must be called out again'.¹ In fact, much of Parkes's future career was concerned with 'doing his duty' by encouraging and assisting the whigs to 'do right'. His co-operation with Althorp in 1831 in persuading the Birmingham Political Union to moderate its plans made him a known and trusted figure in whig circles;² and far from diminishing, his participation in 'public work' increased after 1832. The Birmingham radical lawyer became involved in wider pursuits in the reforming interest and entered upon the third and most active phase of his career, lasting from 1833 to 1847.³

His first assignment was when he was appointed secretary of the Royal Commission set up by the whig government in 1833 to investigate the un-reformed municipal corporations of England and Wales. On his appointment, Parkes left a partner in charge of his legal business in Birmingham and moved to London, where he conducted his own agency, much of it still concerned with parliamentary elections. It was, indeed, the ground floor of his new house in Great George Street, Westminster, which served as the meeting-place of the twenty members of the Corporation Commission; 'a great convenience', he told Place, 'and the "tops" (first and second floor) good enough for me, my Mrs. and twa bairns; for we are not *above* living above'.⁴

The work of supervising the itinerant Corporation Commissioners from London, and collecting and analysing their reports, stretched Parkes's energies and organizing abilities to the full. 'I have daily intended writing you', he told Ellice in September 1833, 'but from 10 till 7 I have been exclusively engrossed on the Corporation Constitutions, where the work is infernal'.⁵ Even when the General Report had been drawn up and presented to the Home Office in March 1835, Parkes's work was not complete, for he assisted with the drafting of the Municipal Corporations Bill introduced to the Commons by Russell in June 1835. And when the Lords proved awkward, mangling the bill 'as South Sea Savages mutilate the bodies of their enemies',⁶ as Parkes put it, he continued his exertions on its behalf. He busily supplied Brougham, who defended the bill in the

¹ Brit. Mus., Add. MS. 35149 fo. 211.

² It appears, however, that Melbourne had suspected Parkes of secretly supplying money to the Rotunda Radicals (Hamburger, *James Mill*, p. 270, n. 12).

³ See Buckley, pp. 116-77.

⁴ Brit. Mus., Add. MS. 35149 fo. 234.

⁵ National Library of Scotland, Edinburgh, Ellice MSS. Parkes to Ellice, 12 Sept. 1833. See also G. B. A. M. Finlayson, 'The Municipal Corporation Commission and Report, 1833-35', *ante*, xxxvi (1963), 36-52.

⁶ Lambton Castle, Durham MSS. Parkes to Durham, 21 July 1835. I quote from the Durham MSS. by permission of A. C. F. Lambton, Esq.

Lords, with information and answers to questions, and tried to arouse support in the country by organizing petitions and writing articles in the press.

Parkes's active role over municipal reform reinforced his position in the varied ranks of the whig party. He had consolidated his place of trust with the whig leaders, having been regularly in touch with Melbourne,¹ Russell, Brougham and Ellice. Moreover, he had built up a far-reaching connection with the reform movement in the country, particularly in the boroughs; and his house in London had become a recognized meeting-place for radicals and reformers from all quarters. He had gained an extensive knowledge of the provincial press, and, in London, established close, if somewhat strained relations with the *Morning Chronicle*.² In a letter to Durham of July 1835—one of the many which he was to write until Durham's death in 1840—Parkes fairly summarized his own position: 'I suppose the circumstances of 1832 and my relation to the Corporation Commission', he wrote, 'have given me a wider insight into and connection with the Liberal Party of the Country than any man living. It is not vain to say so, for circumstances have so ordered it.'³

Such a position, allied to his gifts for management and knowledge of electoral practices—or, on occasion, malpractices—made Parkes well suited to contribute to the development of an extra-parliamentary organization for the whig party. He was quick to realize the need for organization and funds to exploit the registration clauses of the Reform Act, and it was largely due to his efforts that the Reform Association, founded by Durham in 1834 mainly to attend to registration, was reorganized in 1835. A registration office was set up in London, with J. A. Coppock as secretary; and branches were established throughout the country to 'register Reformers or to oppose foul registered Tories', as Parkes himself put it. He was also active in the beginnings of central party organization. In 1834, he was a founder member of the Westminster Club, a predominantly radical association formed to provide a national focal point for reformers, and he took part in the surreptitious campaign for a more widely based organization to fulfil a similar purpose: a campaign which achieved success with the opening of the Reform Club in 1836.⁴ It should be noted that all these activities were unofficial. Parkes was not the paid party agent, for this was Coppock's post; nor, of course, was he a whip or party manager, like Ellice or E. J. Stanley. But he was in constant touch with Coppock, keeping him 'up to

¹By the mid 1830s, Melbourne had, it seems, revised his earlier unfavourable impression of Parkes. In 1836, Parkes wrote to Durham: 'Lord Melbourne, in confidence to you, has the last few weeks by letters and personal interviews, sought and asked my opinion' (Buckley, p. 148).

²He complained that the editor, 'Dr.' John Black altered and 'diluted' his articles (*ibid.*, pp. 144-5).

³Lambton Castle, Durham MSS. Parkes to Durham, 21 July 1835.

⁴Gash, *Politics in the Age of Peel*, pp. 403-11 gives a good account of this episode and also a clear assessment of Parkes's activities and role in connection with party organization and management.

the scratch', as he said,¹ with the benefit of his advice and wide experience of management and electoral practices; and he wrote regularly and copiously to Ellice and Stanley, informing them of election prospects in particular boroughs, of expenses that might be judiciously incurred and techniques employed. He also advised candidates on how to conduct their elections: 'I always had the sense to keep out of Parliament and not to pay for other people getting in', he told Stanley in 1835, 'though I have lost months of *time* in showing others'.² Moreover, long before the days of organized canvass returns or opinion polls, Parkes performed at least something of their functions; before the general elections of 1837 and 1841, he provided Russell with detailed calculations as to the likely effects of the elections on the state of the parties.³ Thus, although professionally Parkes remained a lawyer specializing in election business in the whig interest, politically he built up for himself a position of trust and influence in the whig party. Even after the whigs lost office in 1841, he still corresponded with Stanley about election matters, maintained his association with the *Morning Chronicle* and gave the benefit of his experience and aptitude for political manipulation to Cobden and the Anti-Corn Law League.⁴ He thus became a great repository of knowledge about the arts of political management and organization, consulted by all and sundry, great or small.

But Parkes's interest and activity did not stop at the organization of extra-parliamentary reforming politics. Although not a member of parliament, he paid a great deal of attention to matters of policy and did all he could to help promote measures which would further the radical cause. He saw his work over municipal reform in this light. He certainly did not approach the investigation in an unprejudiced spirit. 'I shall do great good in the Corporation Commission', he wrote to Place. 'I thoroughly... understand the Municipal question—what our civic institutions are and what they should be'.⁵ He regarded the bill which he helped to draft as a 'smasher': 'a grand point', he told Durham, 'to get household suffrage and a thorough purge of the existing Corporations',⁶ and when the bill finally passed in September 1835, establishing popularly elected town councils in place of the old oligarchic corporations, he wrote to Durham that, despite the Lords' amendments, 'municipal reform was the postscript to the Reform Bill... the steam engine for the mill built by "Parliamentary Reform"'.⁷ And, in his view, it was bound to lead to further inroads on the *ancien régime*, such as a more extensive reform of parliament. There were, moreover, strong party considerations which Parkes felt were at stake in these measures. He was anxious to see the end of the tory party, in his eyes the greatest upholder of

¹UCL, Parkes MSS. Parkes to Stanley, 9 Oct. 1836.

²*Ibid.*, Parkes to Stanley, 2 Nov. 1835.

³Public Record Office, 30/22/2/C fos. 221-8 (1837 election). N. Gash, *Reaction and Reconstruction in English Politics* (Oxford, 1965), pp. 206-11 (1841 election).

⁴N. McCord, *The Anti-Corn Law League* (1958), pp. 46, 48, 57, 88.

⁵Brit. Mus., Add. MS. 35149 fo. 234.

⁶Lambton Castle, Durham MSS. Parkes to Durham, 1 June 1835.

⁷*Ibid.*, Parkes to Durham, 6 Sept. 1835.

the aristocratic principle in politics; and reform, he thought, bade fair to achieve this. He wrote that the first elections after the Reform Bill in December 1832 'read the funeral service over the Tories';¹ and the abolition of the unreformed corporations, which had been an area of tory influence and patronage, was another welcome stage in the process. 'The Tories are burked', he wrote to Place in 1835, 'no resurrection for them'. Again, Parkes was confident that the further reforms which he sought from the whigs would in turn lead to their demise. 'By concessions spurred on by the people, the Whigs will be burked soon', he further told Place. 'They are an unnatural party standing between the People and the Tory Aristocracy. Their hearse is ordered'.² And once the whigs were safely interred, Parkes looked to the establishment of a 'People's Party' led by Durham, who, he hoped, would return from his ambassadorship at St. Petersburg and lead this liberal-radical party to fresh triumphs and the achievement of cherished radical objectives. Parkes had, indeed, plans to enter parliament himself when this happened. He told Durham in 1838 that he had been 'working like a Galley slave and making money, hereafter to enter politics more actively, some day when you take the reins'.³

By the end of the eighteen-thirties, however, Parkes's hopes were beginning to desert him. 'How mortifying is our present political situation compared with our power and prospects in June 1832', he wrote to Durham in 1837.⁴ Further reform was not forthcoming; the tories were showing disconcerting signs of life: the whigs, although steadily growing weaker, gave no indication of making those concessions which would hasten their death and burial. 'Pressure from without', Parkes wrote to Cobden, 'will alone rouse the Government. They will otherwise do nothing. Standing still & staring about is their principle & political practice... I hope they will give Lord John Russell the next vacant Bishopric'.⁵ As has been seen, he gave his assistance to the 'pressure from without'—the Anti-Corn Law League—in which Cobden was so closely involved; he had hopes that the agitation kept up by the League would 'again assault the representative system... I see the storm brewing in the talk of Cobden & Co.' he wrote. 'They are the Tom Attwoods of 1831-2. The outdoor men have always scattered the Tories and always will'.⁶ But he felt that the Leaguers were too preoccupied with the single aim of repeal: 'men with one idea', as he put it, who threatened 'the general cause (by) sacrificing it at the shrine of their single question. A one eyed horse can see better than these Manchester gents'.⁷ The other great 'pressure from without' at the end of the thirties

¹ *Three Early 19th Century Diaries*, p. xxx, n. 5.

² Brit. Mus., Add. MS. 35150 fo. 100. These points on the political and party benefits expected of municipal reform are developed by G. B. A. M. Finlayson, 'The politics of municipal reform, 1835', *Eng. Hist. Rev.*, lxxxi (1966), 673-92.

³ Lambton Castle, Durham MSS. Parkes to Durham, 16 Aug. 1836.

⁴ *Ibid.*, Parkes to Durham, 16 May 1837.

⁵ Quoted by McCord, p. 18.

⁶ Nat. Lib. of Scotland, Ellice MSS. Parkes to Ellice, 16 Sept. 1841.

⁷ Quoted by Hamburger, *Intellectuals in Politics*, p. 188.

and in the early forties, the Chartist movement, had more in common with Parkes's views, in so far as it aimed at the kind of organic reforms so dear to his heart; but Parkes disliked the violence associated with the movement and had a strong distaste for its working-class overtones. Thus all aspects of the political situation gave cause for despondency; and Parkes's depression was made the deeper by the death of Durham, the source of so many of his hopes, in 1840. Finally, the defeat of the whigs in 1841, a worse result than Parkes had prophesied to Russell,¹ set a seal on his despair. 'If our system does not share the fate of Sodom and Gomorrah, there is no retribution', he told Stanley. 'I shall retire to my books and a History of the System for Posterity if we are thus to be cut astern'.² Parkes did not immediately carry out his threat to retire to academic pursuits; and, as has been seen, remained active till about the mid forties. But at that point he became much less busy both in his professional and public life. Ill health, brought on by overwork, forced him to retire from his legal practice; and in 1847 the whigs appointed him a taxing master in the court of chancery: a recognition, it would seem, for his past political services. This brought the third phase of his life to an end.

Parkes's activities in this phase may once again be related to developments in the philosophic radical movement in the eighteen-thirties and forties. It might, indeed, be argued that the firm establishment of the whigs in office in 1832, the introduction of further reforming legislation and the need for party organization in the reformed electorate gave the philosophic radicals, with their professionalism and expertise, an opportunity to make their influence felt; and Parkes's position on the Municipal Corporation Commission and in the extra-parliamentary organization of the whig party could thus be taken as a sign of the increased opportunities and influence open to men of his persuasion and training. All this has a certain truth, although it should be borne in mind that the position which Parkes himself came to occupy, with its wide contacts within the radical movement and with the whig leaders, was by no means typical, but was, rather, unique. In his views on matters of policy, on the other hand—in his desire for further organic reform and party realignment—Parkes did adopt a fairly characteristic philosophic radical standpoint; but his opinions as to how this would be achieved did not commend themselves to all his fellow radicals. Parkes differed from them in his anxiety to co-operate with the whigs; this, he felt, was the only practical way to secure further reforms.³ And in the process—as has been seen—the whigs would, in his view, be 'burked'. He had a rather low opinion of the radical members of parliament: 'many of our really honest radicals in Parliament', he told Place, 'are not fit to be even Abbots of a monastery'.⁴ Until Durham returned to lead an effective

¹ Gash, *Reaction and Reconstruction*, pp. 211-13.

² UCL, Parkes MSS. Parkes to Stanley, 8 Sept. 1841.

³ 'We must... goad on but not destroy the rickety, brainless opinionless Ministry' he told Place in 1836 (Brit. Mus., Add. MS. 35150 fo. 101).

⁴ Brit. Mus., Add. MS. 35151 fo. 115.

radical party in parliament, the whigs, kept up to the mark by radical pressure, were the best that could be looked for; moreover, any split in the whig-radical ranks might let the tories into office, put an end to hopes of further reform and encourage mass agitation and class conflict.¹ But other radicals, such as Place and Molesworth, wanted to take a more independent line on political issues; this would force the whigs to take sides and politics would become a straightforward struggle between reformers and tories. They were very critical of Parkes's flexible attitude; Place accused him of 'whig-izing',² and Mrs. Grote took him to task for 'being under whig petticoats'.³ Parkes always strenuously rebutted these charges, and claimed that the arguments were solely about means and not about ends.⁴ But the fact that such arguments took place bears witness to a basic problem facing the philosophic radicals in the eighteen-thirties as to whether to adopt a co-operative or independent policy;⁵ if they adopted the former, they might lose their identity, and if the latter, they might have nothing to show for all their activity. The arguments were also symptomatic of the tendency to quarrels and disputes which so afflicted the philosophic radicals in the thirties and stood in the way of united party effort. Later in the decade, however, there was greater unanimity, if on a sombre note. The depression and disillusionment experienced by Parkes at the lack of progress towards further organic reform was shared by his fellows; and he was not alone in his distaste for the nature and methods of Chartism and in his doubts about the single-mindedness of the Anti-Corn Law League in its pursuit of a non-political aim. Further, the emergence of Chartism and the League meant that the 'People', so long championed in the abstract by the philosophic radicals, had taken on flesh and blood in the form of two movements with strong and mutually antagonistic class overtones.⁶ When this happened, philosophic radical theory no longer fitted the facts of political life; and even Parkes, pragmatist as he was, found the task of making them fit a less congenial and a less hopeful one.

The fourth and last phase of Parkes's career, 1847-65⁷ was one of withdrawal from professional and political concerns. His own health and family worries certainly contributed to this. The health of his daughter Elizabeth (who later married Monsieur Belloc, their son being Hilaire Belloc) was delicate, and his only son suffered a long illness. In November 1848, two years before the illness proved fatal, Parkes wrote to Place: 'I have

¹ Hamburger, *Intellectuals in Politics*, p. 184.

² Brit. Mus., Add. MS. 35150 fo. 217.

³ Buckley, p. 160.

⁴ He complained to Place in 1837 that the fact that they differed on means of obtaining 'our common end' was no reason why they should 'call one another names or why you should reflect on my motives' (Brit. Mus., Add. MS. 35150 fo. 217).

⁵ See Hamburger, *Intellectuals in Politics*, pp. 157 ff.

⁶ *Ibid.*, pp. 250-64.

⁷ See Buckley, pp. 178-91.

hardly seen you the last 18 months. My son's critical illness and continual alarms of us and changes of residence...has worried me almost to the exclusion of all other feelings and associations.' The letter, it is true, went on to make lively comments on the Revolutions of 1848, which momentarily revived Parkes's optimism: 'What a year this A.D. 1848! Despotism has the rigors from which the old Hag will never recover';¹ and Parkes retained his facility for letter writing and political commentary to the end. He also retained his position as a great 'political clubman' with numerous contacts and associates. Henry Adams, the son of the American minister in London, met Parkes in 1861, and described him as 'one of the traditional busy-bodies of politics'.² By that time, indeed, he was little more than this; the days of his greatest political activity, when he had been a busybody, but to some effect, were well over. Towards the end of his life he devoted a great deal of time to the indulgence of his literary tastes: at his death, he had completed one volume of the memoirs of Sir Philip Francis, having convinced himself that Francis was the author of the Junius letters. He died in London, in 1865, at the age of sixty-nine, having apparently caught a chill while travelling to Warwick to register his vote; the circumstances of his death were, at least, in character with those of his life.

It has been seen that personal considerations—domestic and family preoccupations—affected Parkes's withdrawal during these years. But again, he was not alone in withdrawing and finding solace in literature and scholarship; this was something which he shared with other philosophic radicals, such as Molesworth, working on his edition of Hobbes, Grote, returning to Greek history, and Mill at work on his *Logic*.³ And this withdrawal, even if not an altogether sudden or sharp one, was a reflection of the fact that, by this time, philosophic radicalism was a spent force. In 1858 Parkes wrote: 'The old political reformers...are well satisfied at present to abide by 1832 and the consequential larger social gains':⁴ in 1859, 'I do not discern the force to carry any real Liberal change in the Representation...there has been no sincerity or public opinion in or out of Parliament demanding any present change'.⁵ By the eighteen-fifties and early sixties, there was indeed little more to do than to sit in the Reform Club and look back nostalgically to the great days of 1832. 'How different the Public feeling in 1831-2', commented Parkes.⁶ The 'Age of Equipoise', with its lack of political tension and loose party associations, was not conducive to the prosecution of radical aspirations; and bound up with this was the fact that, despite the disappointments suffered by the philosophic radicals, much had already been achieved in the eighteen-thirties and forties.⁷

¹ Brit. Mus., Add. MS. 35151 fos. 388-9.

² H. Adams, *The Education of Henry Adams* (first publ. 1918, popular edn., 1928), p. 120.

³ Hamburger, *Intellectuals in Politics*, pp. 266-8.

⁴ Nat. Libr. of Scotland, Ellice MSS. Parkes to Ellice, 30 Jan. 1858.

⁵ *Ibid.*, 3 Oct. 1859.

⁶ *Ibid.*, 29 Jan. 1859.

⁷ W. L. Burn, *The Age of Equipoise* (1964), pp. 74-6.

The career of 'Radical Joe Parkes' was an active and many-sided one, and the phases through which it passed, even the last, all exemplified that zest, energy and industriousness which so characterized the man. He was, indeed, influenced by many of the forces which shaped philosophic radicalism in the early nineteenth century. He sought to achieve many of its objectives: he was elated at signs of progress, dispirited at signs of failure. Yet he also deviated from pure philosophic radical theory and practice. His thought lacked the precision and his conduct the unsullied independence of the purist and he came to occupy a political position unusual for one associated with the movement. 'Few men in a secondary position were more trusted than he', ran the obituary published in *The Times*, 'few more completely in the current and full tide of political life...Perhaps no man was better acquainted with the secret history of politics during the last thirty or fifty years.'¹ This could not have been written of many philosophic radicals: few, indeed, might have wished it to be written of them. Parkes may be regarded as a distinctive personality and a singular individual, yet the fourfold division of his career is also of general interest in tracing the progress of the philosophic radical movement in the first half of the nineteenth century: its origins, growth, fortunes and fate.

G. B. A. M. FINLAYSON

¹*The Times*, 12 Aug. 1865.

The War Office and the Curragh Incident¹

HISTORIANS OF civil-military relations in England have found the British Army to be a reliable political instrument, far more so than is the case in continental armies. There is no Boulanger, no *affaire Dreyfus*, no Zabern with which to draw parallels. Thus the one occasion when the loyalty of a part of the army seemed in doubt, during the so-called 'Curragh mutiny' in March 1914, has attracted considerable scholarly attention. Hitherto, accounts of the incident have focused either on the problem presented to the government, and their handling of it, or upon the motives which compelled Sir Arthur Paget to misrepresent the orders of the administration to the Irish troops under his command, and led Sir Hubert Gough and many of his fellow officers in the 3rd Cavalry Brigade to proffer their resignations rather than carry out the tasks which they imagined the government required of them.

The actions of the War Office, and particularly the two officers most concerned in the incident, the Chief of the Imperial General Staff (Sir John French) and the Adjutant General (Sir Spencer Ewart), have remained largely unexplained. As a result accounts of the way in which the events were played out have been distorted and the reasons motivating the War Office unexplained. The account of the crucial meeting between Gough, French and Ewart on 23 March is particularly one-sided: the latest work, by A. T. Q. Stewart² cites as evidence an earlier account by A. P. Ryan³ which is merely a rehearsal of Gough's own recollections. Equally, historians have tended to accept that French and Ewart were motivated in their actions by a fear of resignations without establishing how strongly this belief was held and on what evidence.⁴

Some of the gaps can be filled in, and some of the accepted version challenged, through the diary of one of the chief participants at the War Office, General Sir Spencer Ewart. Ewart, born in 1861 and educated at Marlborough and Sandhurst, was a highly intelligent and able soldier. Having seen service in Egypt, the Sudan and the South African War, he became Military Secretary at the War Office 1904-6 and then occupied the post of Director of Military Operations until 1910. As D.M.O., Ewart represents an important bridge between his predecessor, Sir James Grierson, and his successor Sir Henry Wilson. It was he who guided British strategy away

¹ The author wishes to thank Hector Monro, M.P., for making the Ewart Diary available to him and permitting its publication, and Michael Howard for his advice in the preparation of this article.

² A. T. Q. Stewart, *The Ulster Crisis* (1967), p. 169.

³ A. P. Ryan, *Mutiny at the Curragh* (1956), pp. 152-3.

⁴ Sir James Fergusson, *The Curragh Incident* (1964), pp. 146-7.

from a preoccupation with the vulnerability of Egypt and Afghanistan and towards consideration of the continent as the most probable theatre of operations. He was particularly sensitive to the growing German menace and to the fragile position of Belgian neutrality in the event of German hostility towards France; however, such was his strict view of his responsibilities that he always followed the lead set by foreign policy where his successor was prone to ignore it. He subsequently became Adjutant General, and took up the heavy responsibility of the general management of the army. With the prospect of war increasing, the post had a particular importance during these years. His diary, kept in his own hand and written up from day to day, is an untapped source for the reconstruction of the events surrounding the 'mutiny', and it is the more convincing since Ewart was temperamentally a strong Tory and therefore had no reason to disguise the motives of a Liberal administration.

The proposed troop movements in Ireland which were to cause so much dissension were discussed at two conferences in the morning and afternoon of 18 March, in the presence of Seely, French, Ewart, Paget, Macready and Churchill; at times Asquith, Crewe, Birrell, Lloyd George, Battenburg and the attorney general were also present. It was decided that Macready should proceed at once to Belfast to become military governor and as a precaution two cruisers were to be sent to Kingstown 'in case Northern Railway (in hands of Orangemen) should refuse to transport troops north'.¹ Two days later Paget crossed over to resume his command, and on the same day Ewart recorded his impressions of the motivation behind the government's action.

20 March

There will be great head lines tomorrow in the newspapers re our precautionary moves of troops in Ulster; these however are not provocative in any way. They are merely designed to protect barracks, arms and ammunition. I still hope that some way will be found out of the present impasse, but things look sultry. Despite what Lord Wolseley and Roberts have said I believe that the Army may be relied on to do its duty, as long as there is no question of *actively* coercing Ulster into accepting Home Rule. We must take all precautionary measures to protect our depots and arms and ammunition, and to protect life and property if need be; nothing more.

That same evening, at 11 p.m., Ewart learned from Seely of the news that Gough and some of his fellow officers 'preferred dismissal rather than employment in Ulster'.² At Ewart's suggestion they were called over to explain their actions in person.³

¹This casts doubt on Macready's own assertion, in his memoirs, that 'No word reached me of any projected move northwards'. Sir N. Macready, *Annals of an Active Life* (2 vols., [1924]), i. 176.

²Fergusson thus errs in stating that Ewart received the news at 7 p.m. that evening, and also in inferring that Seely 'must have spent much of the evening in consultation with his colleagues' (Fergusson, pp. 97, 99).

³This amplifies Asquith's account of the decision to send for the colonels, since it was only after this meeting that Seely, French and Ewart walked over to see Asquith. R. Jenkins, *Asquith* (1964), p. 309.

Ewart heard each of the four officers concerned separately on 23 March, Macready being present and taking notes.¹

22 March

Paget must be mad. In an absolutely uncalled for way he put a pistol to the heads of the officers of the 3rd Cavalry Brigade and gave them the alternative of serving against Ulster or sending in their resignations (which meant dismissal) by 5 p.m. All the officers spoke most nicely and said that had the brigade received orders to move, even to Belfast, they would have gone like one man, but given the alternative by Paget they were obliged to say they would not fight against Ulster. Paget ought never to have put such a dilemma to them, and no one was more surprised than I was that he should have done so.

Subsequently an informal meeting of the Army Council took place at Seely's house:

Seely was all for removing Gough whatever was done to the three colonels, but all the Military Members feared that if drastic action was taken we might have sympathetic action at Aldershot and throughout the Army.

The following morning, Gough was interviewed by French, Ewart and Seely and asked if he was prepared to go back and command his brigade.

23 March

He said he was but that it would be very difficult indeed for him to get control of the officers and men again unless he was given some assurance in writing that they would not be employed to coerce Ulster into acceptance of the Home Rule Bill. Seely said he would see what could be done as he thought it was desirable that something should be put in writing. Gough disclaimed all idea of refusing to obey orders for the protection of life and property. Seely said he must go over to the Cabinet and would I draft such an assurance as Gough had asked for consideration of the Cabinet.²

Ewart duly drafted it and sent it over to the cabinet after receiving a request for it. As he was on his way to lunch, Gough handed him a letter which, as it was 'very material to the question then under consideration', he sent on to the cabinet; 'and [I] was led to believe the note had reached its destination'.³

At about 2 p.m. that same afternoon Ewart's memorandum came back from the cabinet. The original minute was corrected in Asquith's hand—

but two very important paras had been added [the diary continues] in the handwriting of Seely which practically pledged the Cabinet not to apply coercion to Ulster. Seely sent me a message that he would sign this document if possible, but that, if he was in the House, I and French were to sign it on behalf of the Army Council. French and I had no doubt whatever that the memorandum quite ac-

¹ Apart from Gough, they were Colonel MacEwan, XVI Lancers, Colonel Hogg, IV Lancers, and Colonel Parker, V Lancers.

² The tone of the interview was thus apparently much less belligerent than Gough afterwards averred (see Fergusson, p. 149). Jenkins overstates the case in asserting that Gough 'declined absolutely' to return to his brigade and that Seely agreed to the assurance only 'after some hawing' (Jenkins, p. 311).

³ There is no indication in the diary of the contents of Gough's letter, other than that quoted.

curately represented the considered opinion of the Cabinet. I pointed out to French that it would be impossible for us to sign the two concluding paras. which really pledged H.M.'s Government unless the paper was also signed by a Cabinet Minister. I said to French 'this may become an historical document and we must be very careful what we do'. He agreed, and at 4 p.m. we went to the House of Commons determined to get Seely's signature. Unfortunately he was in the House and we could not personally see him, but Nicholson his private secretary got Seely's signature for us. We then returned to the War Office and about 5 p.m. we saw Colonel Gough and the three Colonels, ordered them to return that night, and handed Gough the document. He asked for a quarter of an hour to consider it and then returned saying that he was quite satisfied but put on paper a supplementary question asking French if he understood that the concluding para meant that under no circumstances would his brigade be called on to coerce Ulster. French wrote on the paper 'that is how I read it' but neither French nor Gough asked my opinion. I asked if all four officers understood that they had verbal orders from me as AG to return that night to the Curragh and Dublin respectively and they said they did.¹

Speeches made that night by Haldane and Morley in the house of lords and the Commons confirmed Ewart's belief that he was acting in accord with the cabinet's wishes.

On the afternoon of 24 March, Ewart was called to the house of commons, where he saw Asquith, Lloyd George and Churchill.

24 March

They asked me to produce all papers in my possession relating to recent occurrences and I produced the letter handed to me by Gough about 1 p.m. which I sent over to the Cabinet and they remarked that they had never seen it till that moment.

Ewart's original draft was examined, and Asquith recognized amendments in his own hand to the first three paragraphs, but asked who had added the last two. It was Churchill who pointed out that they were in Seely's hand, and then Ewart recognized it for the first time 'though it was larger than usual'.

I left the room perfectly staggered for it now appeared that Seely must have added off his own bat to a Cabinet document which I and French had signed believing it to be a Cabinet decision and on the strength of which officers had been induced to return to duty.

Nothing but necessity would ever really have induced us to give Gough any assurance on paper, but we felt that, unless the Cavalry officers could be induced that afternoon to return to duty, we might have a sympathetic strike and widespread resignations throughout the Army.

Bethune warned us that the Territorials were ready to resign in large numbers; Haig said there would be a sympathetic move in Aldershot; half the officers in the War Office could not be trusted. What we did we did to prevent something worse happening, though it was all a bad blow to discipline. French said 'I would have signed anything yesterday to get those fellows back to duty' and he was right. We might have had something like a general mutiny.

¹ In the light of this entry in particular, it is difficult to justify Ryan's assertion (p. 125) that, in handling the affair, Ewart 'passed the buck'.

On 26 March, French and Ewart saw Seely and tendered their resignations on the grounds that the document they had signed in good faith was now being repudiated by the government. Seely saw the prime minister and returned with the news that the resignations would not be accepted pending a cabinet meeting. Accordingly, French and Ewart returned to the War Office to address a meeting of the Commanders in Chief of all the Commands in England arranged four days previously.¹ At that meeting, at which French spoke as arranged on discipline, the generals promised to stay at their posts even if resignations were accepted 'and try to keep everyone quiet'. Ewart closed his account of the day with the remark that 'it would not have been difficult to get up a revolution had one been of that mind I fancy'.

Cabinets in the morning and afternoon of 27 March could not agree on a statement which would meet the government's requirements and at the same time save the position of the soldiers. The following day, a Saturday, the four members of the Army Council met and agreed to do nothing until Monday. This was due largely to Sir John Cowans (Quartermaster General) remarking that if they pressed their resignations 'these good people' might in desperation go to the country on a platform of 'The people versus the Army' and as a result be returned with a huge majority.² On Monday 30 March, French and Ewart agreed to press their resignations since there seemed no sign of any conciliatory formula which could satisfy all parties; again, they acted only after gaining the support of their two fellow members of the Army Council. The press carried the announcement the following day. By now, Ewart felt only relief that all was over.

1 April

There seems little doubt that French's resignation has enormously increased his influence in the Army. . . .

Heaven knows now how thankful I feel to be out of it all; now they can make me a scapegoat as much as they like. My only fear is that my health is permanently injured for God alone knows how I have felt the strain.

He concluded:

I absolutely repudiate, as far as my knowledge goes, the legend that there has been a wicked plot to coerce Ulster or to provoke Ulster to take the initiative.

The subsequent military careers of French and Ewart were markedly disparate. In August 1914, Sir John French was appointed to the post of Commander-in-Chief of the British Expeditionary Force in France which

¹ Since the conference had been arranged on 22 March it was clearly not designed to explain the actions of Ewart and French during the incident, *contra* Fergusson, pp. 164-5.

² This is an interesting counterpoint to Wavell's assertion that an official victory had been won to the detriment of the army in what was, in effect, a refusal to enforce the Home Rule Bill (*ibid.*, p. 153).

he held for over a year; by contrast, Ewart's active career was ended. Lacking influential support he was unable to overcome the stigma of association with the 'mutiny', which was quite unfounded, and spent the war years languishing as General Officer Commanding the Scottish Command. Only for one moment was there a chance that this gross misuse of his abilities might have been remedied; in June 1915 it was suggested that Ewart might be sent out as Chief of Staff to the struggling Hamilton at Gallipoli. Hamilton successfully resisted this move on the ludicrously trivial grounds that Ewart was too fat to squeeze into some of the trenches.¹

In after life, one thing puzzled Ewart about the Curragh Incident: how was it that his paper for Gough, with its gloss by French, found its way into the press the day after it had been handed to Gough? There were only two copies, Gough's and his own which he locked in his safe. He learned the answer when, on 30 September 1928, he received a visit from General Charteris who was engaged in writing his biography of Haig. Ewart had always been aware that, after Gough had received the paper, he and his brother John Gough had spent the best part of the afternoon closeted with Sir Henry Wilson; but, as he recorded in a subsequent note of the conversation,

it was news to me to hear from Charteris, who was Military Secretary to Haig at Aldershot, that Henry Wilson supplied Haig with a copy of the document the same evening. It is clear therefore that copies of this secret paper were taken & I feel tolerably sure in my own mind now that if the truth were known it would be found that the communication of its contents to the Press was due to that intriguing Ulsterman Henry Wilson.

J. GOOCH

¹ Dardanelles Commission, Evidence D-L. Telegram, Hamilton to Kitchener, 16 June 1915 (Public Record Office, Cab 19/29).

Notes and Documents

Commissions for Crown Revenues and Land Sales in the Early Seventeenth Century

IN LAMAR M. HILL's interesting recent article, printing 'Sir Julius Caesar's journal of Salisbury's first two months and twenty days as lord treasurer',¹ one point may be suggested by way of addition or emendation. Professor Hill writes (p. 315, n.2) that the reference to 'my lords commissioners' on 4 May 1608 cannot have been to a general Treasury Commission, since no such existed until after Salisbury's death in 1612, but that it was probably used to designate an interlocking directorate of particular revenue commissions. It is, however, evident from numerous references that—as one would expect—contemporaries made a clear distinction between those who would be described as 'commissioners', that is exchequer or land revenue officials, or local gentry entrusted with particular tasks,² and 'lord' or 'lords commissioners', who were invariably peers, privy councillors, judges, or other great officers of state. Commissions of the latter type were in fact issued with bewildering frequency during James I's early years; for the sake of convenience some of the more prominent ones are tabulated below.³ The 'lords commissioners' mentioned by Caesar were thus—in all

¹ *Ante*, xlv (1972), 311–27.

² For example that referred to by Lord Treasurer Dorset in Apr. 1607 (Hist. MSS. Comm., 9, *Salisbury (Hatfield)*, xix. 86–7), for the enfranchisement of royal copyholders; that for surveying the king's lands (?) Feb. 1608 (*Cal. S. P. Dom. 1603–10*, p. 404).

³ 12 Oct. 1603, to the lord treasurer and others, to sell certain categories of Crown lands (*Cal. S. P. Dom. 1603–10*, p. 45);

26 Oct. 1603, to the lord chancellor, lord treasurer and others, to make copyhold and customary lands free [by sale] (*ibid.*, p. 48; P.R.O., State Papers Domestic, James I, S.P. 14/4/31, verso, gives the commissioners' names);

10 June 1606, to the lord chancellor, lord treasurer and others, to sell Crown lands in fee-tail, fee-general or special, etc. (*Cal. S. P. Dom. 1603–10*, p. 330; P.R.O., MS. Index of Patent Rolls, 4 James I, fos. 45, 55);

15 Nov. 1606, to the lord chancellor, lord treasurer and others, to sell assart lands in fee-farm (*Cal. S. P. Dom. 1603–10*, p. 335; P.R.O., Patent Rolls Index, 4 Jac., fos. 30v, 41v);

31 Dec. 1606, to the lord chancellor and others, to treat with tenants or purchasers of Crown lands, and to compound with them for a new assurance [of their titles to such lands] (Hist. MSS. Comm., *Salisbury*, xviii. 367–8);

30 Sept. 1607, to the lord treasurer, the earl of Suffolk and others, to sell fee-farm lands (*Cal. S. P. Dom. 1603–10*, p. 373);

22 Nov. 1607, to the lord chancellor, lord treasurer and others, to compound for

probability—those charged with responsibility for the sale and the leasing of Crown lands, or for compounding with the purchasers of lands or leases. Although it is true that they did not constitute a general Treasury Commission,¹ some measure of collective responsibility, usually involving the lord chancellor and other senior councillors besides the lord treasurer himself, must have served as a kind of limit on his individual freedom of action in such matters.

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lands [sold] at less than the [proper] saleable value (P.R.O., Patent Rolls Index, 5 Jac.);

11 Feb. 1608, to the lord treasurer and others, to treat with those who will lend money to the king (*Cal. S. P. Dom. 1603-10*, p. 404);

18 Apr. 1608, to the lord chancellor and others, to let divers of the king's lands to farm (P.R.O., Patent Rolls Index, 6 Jac., fo. 24);

and after Salisbury's accession to the treasurership;

21 May 1608, to the lord chancellor and others, authority to let [Crown] lands, etc. (*ibid.*);

21 May 1608, to the lord chancellor, lord treasurer and others, to sell assart lands (*ibid.*, fo. 30);

1 June 1608, to the lord chancellor, lord treasurer and others, to sell lands forfeited to the Crown for recusancy (*Cal. S. P. Dom. 1603-10*, p. 436);

8 June 1608, to the lord chancellor and others, to compound for defective titles (*ibid.*, p. 438; P.R.O., Patent Rolls Index, 6 Jac., fo. 30);

14 June 1608, to the lord chancellor, lord treasurer and others, to receive surrenders of lands mortgaged by Queen Elizabeth to the City for loans which have now been repaid, and to re-let the same for 40 years or 6 lives (*Cal. S. P. Dom. 1603-10*, p. 439). A thorough examination of the original Patent Rolls and the Signet Office Docquet Books for these years would almost certainly reveal several more.

¹ As the indexer of the 1607 volume of the Cecil calendar was led to suppose by one reference to 'lords commissioners' (Hist. MSS. Comm., *Salisbury*, xix. 87, 628).

Lord Montagu and his Journal of the Short Parliament

WHEN EDWARD, Baron Montagu set out from Boughton, his Northamptonshire home, for Westminster and parliament in the spring of 1640, he was seventy-eight years old and a veteran parliament-man. His first parliament had been the last of Queen Elizabeth. From then until the summer of 1621 he had sat in the house of commons; in the autumn of 1621 he had moved to the Upper House as 1st Baron Montagu of Boughton. Over the years he had observed and participated in much parliamentary activity. Like other parliament-men he kept notes of proceedings and copies of speeches, bills and petitions. Many of these are among the Montagu Papers in the possession of the duke of Buccleuch and Queensberry. Some have been printed in the *Reports* of the Historical Manuscripts Commission;

others, including a Journal of the Short Parliament, remain in manuscript.¹

The Short Parliament assembled on 13 April 1640, and met for only three weeks before its dissolution on 5 May. Charles I had summoned the parliament, the first in eleven years, in order to obtain money for his war against the Scots.² The Commons answered his pleas for support with requests for redress of grievances. Although the king appealed to the Lords to intercede in his behalf with the Lower House, he obtained no money. Instead he found renewed insistence that grievances had priority and a controversy over whether such intercession had violated the privileges of the Commons. The king dissolved parliament in anger.³ By autumn renewed war with the Scots and demands for a parliament convinced him that he would have to call another. That assembly, which has gone down in history as the Long Parliament, met in November 1640. It proved no more tractable than its short predecessor. By 1642 its relations with the king had reached the point of civil war.

Lord Montagu's Journal of the Short Parliament provides a brief but valuable account of these critical moments in British history. It reveals something of its author as well as of the parliament. Even though he was aged and infirm by 1640, Montagu attended parliament regularly. He missed only one day, that because of gout.⁴ His attendance was not exceptional, but it was comparable to that of his brother, the lord privy seal, and that of the archbishop of Canterbury. It surpassed that of both the earl of Strafford

¹ I am grateful to His Grace the duke of Buccleuch and Queensberry for permitting me to use the papers in his possession. I should also like to thank Mr. P. I. King, Chief Archivist at the Northamptonshire Record Office, for his patient help with my pursuit of Montagu. Montagu's Journal of the Short Parliament can be found in volume 186 of the Montagu Papers (shelf 13, number 2, North Colonnade) at Boughton House. It has not been mentioned in any of the *Reports* of the Historical Manuscripts Commission. For papers which have been reported on, see Hist. MSS. Comm., *Buccleuch MSS.*, vols. i and iii. I hope to continue my exploration of Montagu's political career and to edit his Journal of the Short Parliament. Professor Willson Coates and I are now preparing an edition of proceedings of the Lords and Commons during the spring of 1640.

² See the speech given for the king by the lord keeper, 13 Apr. (*Journals of the House of Lords*, iv. 46-8). The king was not actually at war when parliament met. Peace had been made in June 1639, but the quarrels had continued. In 1640 the king was anticipating another campaign. Lord keeper's speech for the king, 21 Apr., reported to the Lords, 22 Apr. (*ibid.*, pp. 62-3).

³ Public Record Office, S.P. 16/452/33, letter from the earl of Northumberland to Conway, 5 May 1640. The account in British Museum, Harley MS. 4931 fo. 49, and that given by Edward Hyde, earl of Clarendon, *History of the Rebellion* (Oxford, 1888), ii. 79, suggest that if the king had been more patient he might have received some subsidies.

⁴ Montagu's Journal, p. 2d. (My references to the Journal show the old pagination which proceeds: 1a, b, c, d, 2a, b, c, d, 3a, b, c, d. The Journal ends with p. 3d.) The day Montagu missed was 27 Apr. He had mentioned his age and health in writing to the king about attending him at York in 1639 and had attempted for similar reasons to obtain permission to miss parliament in 1626. Hist. MSS. Comm., *Buccleuch MSS.*, i. 277-8; iii. 263-4, 379-80. There is no evidence that he sought to stay at home in 1640.

and Viscount Saye and Sele, who also had important roles in the parliament.¹

Montagu was himself neither one of the predominant figures nor a follower of one of the leaders. Despite his brother's position he was not an unquestioning supporter of court policy. He had been unhappy about the war with the Scots in the spring of 1639, and had responded reluctantly to the king's request for aid in that venture.² In 1640 he joined Lord Saye, Lord Brooke and 'some of that knott' in voting against the royal proposal that supply should be immediate.³ John Gruenfelder in a recent essay concludes that Montagu's 'candidates in Northamptonshire and Huntingdonshire can all be considered either moderate reformers or men of a fully puritan persuasion'.⁴ Nevertheless Gruenfelder points out that 'Parliament's supporters' regarded Montagu as a 'royalist'.⁵ His lordship was not really one of Saye's associates. There is no evidence that he participated in any of Saye's extra-parliamentary activities, and his Puritanism seems to have been more moderate than Saye's was.⁶ In 1642 when Civil War broke out, Montagu served the king. His letters show that he felt both Crown and parliament had acted unreasonably.⁷

Montagu's independence did not mean his idleness in the house of lords. Although he did not speak on every issue that came before the House or sit regularly on the committees which conferred with the house of commons, he did contribute to the parliament. He served on the Lords' committee of privileges, its subcommittee which examined the Journal each Saturday, the committee for petitions, and a number of committees for particular bills.⁸

¹These statements are based on the records of attendance in the *Lords Journals*.

²See the correspondence in Hist. MSS. Comm., *Buckleuch MSS.*, i. 285 ff., iii. 379-86.

³The phrase 'some of that knott' was used by Montagu's son William in a letter to his father in 1639 (*ibid.*, i. 278-9). A list of those who were 'against the King' in the question, 24 Apr. 1640, P.R.O., S.P. 16/451/39.

⁴J. Gruenfelder, 'The Election to the Short Parliament, 1640', in *Early Stuart Studies*, ed. H. S. Reinmuth, Jr. (Minneapolis, 1970), p. 187. (Some of these men, however, were members of Montagu's family.)

⁵*Ibid.*

⁶Although Montagu had defended the suspended ministers in 1605, his subsequent concern about religion was on less controversial issues. In the opening days of the parliament of 1628, for example, he moved that a fast be held and urged that ministers be resident. *Notes of the Debates in the House of Lords, 1621, 1625, and 1628*, ed. F. H. Relf (Camden 3rd ser., xlii, 1929), pp. 64-8. See also W. Notestein, *The House of Commons, 1604-10* (New Haven, 1971); *Lords Journals*. Montagu was apparently involved neither in the Providence Island Company nor in the political meetings of Saye, Brooke and others (P. Zagorin, *The Court and the Country* (New York, 1970)).

⁷Hist. MSS. Comm., *Buckleuch MSS.*, iii. 414-17, letters to his son William and to his brother, Lord Manchester.

⁸Committee lists in *Lords Journals* and in House of Lords Record Office, Braye MS. 16, the Clerk's notes; the Minute Book, 13 Apr.-5 May (H.L.R.O.) shows Montagu's signature as an examiner of the Journal on 16 Apr. (p. 15) and 2 May (p. 52). Montagu's Journal not only records his membership of the committees but gives some brief notes of committee meetings.

When he entered debate, he demonstrated that even if his body were failing, and he could not always remember the exact words of a speaker, his mind was still alert.¹ When Lord Cottington presented the allegedly treasonous letter from the Scottish lords to the king of France on 16 April, Montagu asked when the letter had been written and thereby diminished its significance.²

His years of experience, which included service in the Lower House as well as the Upper, increased the value of his remarks. He had a perspective which many lords lacked. Few of them could comment with such authority about what was customary. Both his Journal and his speeches show evidence of his perspective. In reporting the speech delivered for the king by the lord keeper on 21 April, Montagu noted it was 'like many to come out in print'.³ On the other hand the king's meeting with the privy council at Westminster Palace on the day parliament opened was something Montagu had never seen before.⁴

Procedure was Montagu's principal interest in the Short Parliament.⁵ His account of the parliament approaches other topics in terms of the procedural issues they involve. Although he may have been concerned about religious matters, his Journal offers little evidence to support the claims that he should be called a Puritan. For him the dispute over adjourning the Lords on Convocation days raised questions about customary practice rather than about the rights of bishops. He gives only brief notice to the argument that bishops were a third estate.⁶ Montagu's careful noting of procedural details shows not only how parliament worked but also the extent to which there may have been differences of opinion or discussion about particular matters. In reporting a request for action on Dr. Manwaring's case, Montagu pointed out that since some debate arose, the case was referred to the committee of privileges. The committee would be able to consider the case at greater length. The House could base its action on the committee's report and be more confident that right was being done.⁷

Procedure was a means of preserving the order of the House and the

¹Montagu's Journal, p. 2b. He could remember neither the offensive words of the bishop of Exeter about the three estates nor the precise nature of the lord keeper's speech for the king on 21 Apr.

²Montagu's Journal, pp. 1c-d; H.L.R.O., Braye MS. 16 fo. 8v.

³Montagu's Journal, p. 2b.

⁴*Ibid.*, p. 1a. I have found no other account of the opening of the parliament which mentions such a meeting.

⁵His interest in procedure was a long-standing one. This is quite evident in his papers (Hist. MSS. Comm., *Bucleuch MSS.*, vols. i and iii). See also E. R. Foster, 'Speaking in the house of commons', *ante*, xliii (1970), 37. Mrs. Foster and Hakewill led me to Montagu and have stimulated my study of him.

⁶Compare the account in Montagu's Journal, pp. 1d, 2a, 2b, with that in Brit. Mus., Harl. MS. 4931 fo. 47r-v, or that in Braye MS. 16 fos. 10v, 12, 12v. The Braye account indicates that Montagu participated in the debate, but it does not make clear what he said, 'L. Mont. observes orders' (fo. 12v).

⁷Montagu's Journal, p. 2a. See also his account of the request from the earl of Middlesex to be readmitted into the House (*ibid.*, p. 3c).

rights of Englishmen. Montagu thought that following the proper procedure was important. He did not hesitate to remind the Lords when they departed from the customary way. On 16 April when they were organizing their business, they were about to call the House before appointing the committees of privilege. Montagu intervened to point out that the committees should be named first and succeeded in having his view upheld.¹ His concern about maintaining traditional procedure was aroused again a week later, on 24 April, when the king appealed to the Upper House for a resolution favouring immediate supply. A majority of the lords yielded to his wishes. The House voted that 'His Majesty's Supply should have Precedency, and be resolved of, before any other Matter whatsoever', and 'there should be a Conference desired with the House of Commons, to dispose them thereunto'.² Twenty-five lords, including Montagu, voted against the resolutions.³ In his Journal Montagu does not indicate how he voted or explain his position.⁴ The Clerk's notes are more informative. They show that Montagu had participated in the lengthy debate which preceded the voting. To him the king's request seemed to endanger established procedure. If the lords voted that supply should be granted immediately, they would be ignoring the special powers which belonged to the Lower House in matters of taxation. A breach might occur between the two Houses. Consequently Montagu advocated a conference. The Lords should tell the Commons 'the effect of the K[ing's] speech and leave it to them'.⁵

The warnings of Montagu and others, such as Saye, who presented a similar argument, were not heeded and their fears were soon justified. The Commons protested that their privileges had been violated by the Lords' resolution for the precedency of supply and asked that reparation be made.⁶ The protest brought forth more controversy in the Upper House. After much discussion the Lords confirmed their previous position. They voted that their resolutions were 'no Breach of the Privileges of the House of Commons'.⁷ Montagu seems neither to have participated in nor to have recorded the debate. He noted in his Journal to 'get what the speech was' but apparently never did so. He simply reported the results of the vote and commented, 'What will be the issue of this'.⁸ His accounts of the following

¹Montagu's Journal, p. 1d. See also his questioning of the procedure in committee, p. 2b (21 Apr.).

²*Lords Journals*, iv. 67.

³P.R.O., S.P. 16/451/39, a list of those who were 'against the King' in the question, 24 Apr. 1640. The names are also given in the Glanville MS. p. 4, Yale Law Library. I have used a transcript belonging to Professor Willson Coates.

⁴Montagu's Journal, p. 2d.

⁵H.L.R.O., Braye MS. 16 fo. 22.

⁶The conference where the protest was made was held on 28 Apr. (*Commons Journals*, ii. 15). It was reported to the Lords on 29 Apr. (*Lords Journals*, iv. 72-3).

⁷*Lords Journals*, iv. 73. A second point was considered and voted upon on 30 Apr. (*ibid.*, p. 74). For notes of the debate, see Braye MS. 16 fos. 35-41v (29 Apr.), fos. 42-4 (30 Apr.).

⁸Montagu's Journal, p. 3a (29 Apr.). It is not certain exactly what he intended 'to get'. Montagu also gives a brief account of the debate on 30 Apr. (*ibid.*, p. 3b).

days reveal his continuing interest in the problem. He observed the persistence of the quarrel between the two Houses and the desperate efforts by the Crown to win support from the Lower House. Although the Commons sat until six o'clock both Saturday 2 May and Monday 4 May, little progress could be noted.¹

On 5 May the king dissolved parliament. His move took many, including Montagu, by surprise.² Montagu's reactions to the dissolution and the events of the summer are not available. He was not one of those lords known to have been in correspondence with the Scots during the summer. Likewise his name is not among the twelve signatures on the petition for a parliament which was presented to the king at the end of August. With a number of other lords who did not originally sign Montagu did, however, support the request for a parliament.³ In a letter written to his activist nephew, Lord Mandeville, he declared, 'I think he neither fears g[od] nor honours the King, nor w[ishes] well to the Commonwealth that will not join in the petition'.⁴

Although he had seen the Short Parliament fail, Montagu did not discard his belief in the possibility of a successful parliament where the king, Lords and Commons co-operated in providing for the welfare of the kingdom. Even in July 1642 after he had observed anxiously the disputes of the Long Parliament, he declared that the quarrels might have been avoided. The traditional procedure, which gave king, Lords and Commons each certain rights and duties and thereby maintained harmony, had been overthrown. 'If every House had kept to their old orders, which I gave a touch of in my last speech, these distractions needed not to have been'.⁵ The same words might have served as his epitaph for the Short Parliament.

In 1640 age and experience distinguished Montagu from many of his contemporaries. It would be tempting to argue that the Short Parliament might have been more successful if more of its members had been veterans of service in both Houses. Montagu seems to be an example of the desirability of such experience. His nephew Lord Mandeville and the earl of Warwick are among those whose cases would also support the argument, but there are others who could be cited as opposing evidence.⁶ Montagu's

¹ Montagu's Journal, pp. 3b-c.

² *Ibid.*, p. 3d.

³ P.R.O., S.P. 16/464/45, 18 Sept. 1640. Secretary Windebanke reports in his notes of the privy council during the king's absence, 'The petition of the Lords signed since it came back by some Lords'. See also S.P. 16/466/75 and S.P. 16/467/119 for other references to support for the petition from other lords. No names are mentioned. For an account of the events of the summer, see S. R. Gardiner, *History of England from the Accession of James I* (18 vols., 1900-3), ix, chs. 93 and 94.

⁴ Hist. MSS. Comm., 8th Rept., app., pt. ii, p. 57 (11 Sept. 1640).

⁵ Hist. MSS. Comm., *Buccluch MSS.*, iii, 416-17.

⁶ Edward Montagu, Baron Kimbolton, known by courtesy as Viscount Mandeville, house of commons (HC): 1624, 1625, 1626; house of lords (HL): from May 1626. Robert Rich, 2nd earl of Warwick, HC: 1610, 1614; HL: from 1621. Henry Rich, earl of Holland and brother of the earl of Warwick, was also an experienced parliament-man. He took little part in the Short Parliament. On 24 Apr. he voted

brother Henry, earl of Manchester and lord privy seal, probably had the record of service which most nearly equalled his.¹ Manchester defended the king's requests for aid. So did the earls of Strafford and Dorset, both of whom had sat in the Lower House before going to the Lords.² In the debate of 24 April Strafford made it quite clear that he understood how the house of commons operated. He felt that their customary way would be too slow.³ Preservation of the king's honour justified an appeal to the Lords. Viscount Saye provides the illustration for a different side of the question. He, who never sat in the house of commons, was the leading spokesman for its privileges.⁴ As a Puritan, he shared some of the Commons' grievances and wanted reform. Experience presented a divided front in 1640. Protection of the subjects' rights through parliament and upholding the king's honour could both be supported by tradition. Under such circumstances the opposition of Montagu and the other twenty-four lords to the king's request required courage and conviction. Experience could be the basis for these, but it was not enough.

Although Montagu seems to have been older, more experienced and more independent in his thinking than the 'average lord', he attracted relatively little attention. This suggests that he was probably not extraordinary. There may have been more lords than we realize whose political convictions are not easily labelled. The complexities of opinion in the Upper House need further study; so does the seriousness with which the lords took their job. Montagu's papers should stimulate this investigation. His speeches in the spring of 1640 may have had little impact, but his Journal should lead to a search for other material and a historical reassessment of the parliament. His brief but perceptive account of proceedings in the house of lords provides another side to the drama which so frequently concentrates on the Long Parliament, the Commons and the king. The Short Parliament and the Lords also belong in the story.

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with the king, but he was one of the two privy councillors who opposed dissolution on 5 May. The earl of Northumberland, who also voted with the king on 24 Apr., was the other. (W. Laud, *History of the Troubles and Tryal* (London, 1694), p. 79.) Information about experience in this and the following notes comes from *D.N.B.*; *Return of Members . . . to serve in Parliament* (1878); *Lords Journals* and *Commons Journals*. See also E. R. Foster, 'Procedure in the House of Lords during the early Stuart period', *Journal of British Studies*, v, no. 2 (1960), 59-60. Mrs. Foster's comments about experience prompted me to explore the matter.

¹ Henry Montagu, HC: 1601, 1604-10, 1614; HL: from 1621.

² Thomas Wentworth, 1st earl of Strafford, HC: 1614, 1621, 1624, 1625, 1626, 1628; HL: from 1629. Edward Sackville, 4th earl of Dorset, HC: 1614, 1621; HL: from 1624.

³ H.L.R.O., Braye MS. 16 fos. 24v-25.

⁴ William Fiennes, Viscount Saye and Sele, HL: from 1614. Robert Greville, 2nd Baron Brooke, whose name is often coupled with Saye's, had been returned to the Commons in 1628, but seems to have taken no significant part in proceedings. Although he could have been in the Upper House for at least part of the session in 1629, he apparently did not sit.

Two Unpublished Letters of Oliver Cromwell

IN VOLUME 823 of the Lansdowne manuscripts in the British Museum are two letters of Oliver Cromwell¹ which have, as far as I know, never been printed before. The reason why they have gone unnoticed by the compilers of the complete writings of Oliver Cromwell² may be that they are not indexed in the printed catalogue to the Lansdowne collection,³ nor are they indexed in the typed contents bound into volume 823. They probably have escaped indexing because they are enclosed in another letter which is bound in the volume. The volume in which the letters are to be found is the last of three (821–823) containing the correspondence of Henry Cromwell, that is the letters written to Oliver's second son while he was in Ireland (1655–9), first as major-general of the forces in Ireland, and later as commander-in-chief, lord deputy and lord lieutenant. The two letters are enclosed in a letter of Dr. Joseph Waterhouse⁴ to Henry Cromwell, dated 2 April 1659.⁵ Dr. Waterhouse sent the two letters to Henry, along with a letter from the three parliamentary commissioners for Ireland dated 28 May 1652,⁶ to lend force to his claim to a position in Ireland.

Dr. Waterhouse had gone with the English army under Cromwell to Ireland in 1649. Two physicians ought to have gone according to the establishment, but apparently only Waterhouse was prepared to face the 'hazards and daungers'.⁷ For his services, besides his pay of 10s a day, Oliver Cromwell granted him in 1650 the custodiam of a farm in 'Clayre in the Countye of Corke' which was worth £80 a year. After the war in Ireland was over the English council sent other doctors over to Ireland with the pay of 20s a day.⁸ Waterhouse applied to the Irish commissioners for the like salary, which was granted from 1 May 1652, but they took his farm away.

¹Folios 285 and 286.

²*The Letters and Speeches of Oliver Cromwell, with elucidations by Thomas Carlyle*, ed. S. C. Lomas (3 vols., 1904); and W. C. Abbott, *The Writings and Speeches of Oliver Cromwell* (Cambridge, Mass., 4 vols., 1937–47). See also P. H. Hardacre, 'Writings on Oliver Cromwell since 1929', *Journal of Modern History*, xxiii no. 1 (1961), 1–14, who states that it is unlikely that any new letters of Cromwell will be found, but who failed to find two published by M. Kelly in *Notes and Queries*, cxcviii (1953), 283–4.

³*A Catalogue of the Lansdowne MSS.* (1819), pt. ii, pp. 192–3.

⁴Brother of Nathaniel Waterhouse who was steward to Oliver Cromwell, he had been educated at Trinity College, Cambridge, and on 12 March 1651 had been created M.D. of Oxford University for his services as physician to the army in Ireland upon the personal recommendation of Oliver Cromwell, the chancellor of the university (Abbott, ii. 394). In *Alumni Oxonienses, 1500–1714*, ed. J. Foster (Oxford, 4 vols., 1891–2) he is given the wrong Christian name John. This may be because he was sometimes referred to as Jo. Waterhouse (Abbott, ii. 394).

⁵British Museum, Lansdowne MS. 823 fos. 282–3.

⁶*Ibid.* fo. 284, signed by Miles Corbett, Edmund Ludlow and John Jones.

⁷*Ibid.* fo. 282.

⁸*Ibid.* fo. 284.

from him and in late 1653 reduced his pay back to 10s a day.¹ Waterhouse thereupon appealed to the protector, whose life he claimed to have saved,² and Oliver Cromwell wrote two letters asking the Irish Council to re-establish him in his former pay of 20s a day. They are a good example of how Cromwell was able to turn his mind to the detail of administration in the midst of a political crisis. The first letter, dated 12 September 1654, was written on the same day that Cromwell addressed the first protectorate parliament demanding that the members sign a recognition of his government.³ The letters seem to have had no effect, for not only was Waterhouse not granted the 20s but his position as physician to the army was taken from him. Waterhouse wrote to Henry Cromwell in April 1659 for a position in Ireland as a recompense for his previous misfortunes. He claimed to have the support of the new protector, Richard Cromwell, who had written to Henry on his behalf. Henry himself appears to have promised to 'conferr some worthe employment' on Waterhouse when they had last met in Dublin.⁴ Waterhouse wrote from England, most probably London, for he had left Ireland in September 1658.⁵

I have been unable to find any evidence to suggest that Waterhouse was granted employment by Henry Cromwell. The collapse of Richard Cromwell's protectorate at the end of April 1659 and Henry Cromwell's subsequent submission to the restored Rump in June 1659 and his return to England probably ruined Waterhouse's chances of employment. After all one of the new men in Dublin in the summer of 1659 was the very Edmund Ludlow who, along with his fellow commissioners, had first raised Waterhouse's pay and then reduced it, and had deprived him of his farm and subsequently his post as physician to the army.

CLYVE JONES

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*British Museum, Lansdowne MS. 823 fo. 285*⁶

His Highnesse Letter To the Right honoble the Councell of State in Ireland.

My Lordes & Gentl:

Dr. Waterhouse haveing represented his Case to us, much whereof is peticularly Knowne to our selfe, vizt. that hee was the onely Phisition (although two were Allowed by the Establishmt) that went over with the Armye, under our Conduct into Ireland, and after our being Some tyme there, takeing notice of his Services, and the trouble & Hazards which was undergon by him, and of his Care and Diligence, as to others: Soe peticularlye towardes our selfe wee did thinke fitt

¹ *Ibid.* fos. 282-3, 284, 285.

² *Ibid.* fos. 282-3, at Ross. Cromwell, in Nov. 1649, confessed he had been 'crazy in . . . health', probably with dysentery, while at Ross (Abbott, ii. 159-60).

³ Abbott, iii. 451-62.

⁴ Brit. Mus., Lansd. MS. 823 fo. 283.

⁵ *Calendar of State Papers Domestic 1658-9*, p. 449.

⁶ The original spelling, contractions, punctuation and capitalization have been retained. I should like to thank the Trustees of the the British Museum for allowing me to publish these letters.

for his further Encouragemt: (his pay by the Establishmt being but Tenn shillings p diem) to graunt unto him a Custodium of the value of Eightye pounds p Annū; which when hee had received two yeares profitt, was as wee are informed upon ye Settlemt of that Countye otherwise disposed of. After which the Councell of State findeing itt Expedient to Send over more Phisitians they allowed to each of them 20 sls p diem, and thereupon the Commissioners in Ireland did augment Dr. Waterhouse his pay to 20 sls p diem likewise which, as hee Sayeth hath for about a yeare last past bene againe reduced to 10 sls p diem: wherefore in respects Dr. Waterhouse bore the maine brunt of the trouble and harared [*sic*, ? hazard], in that Kinde boeth as to the feild in the warr, and alsoe to infectious diseases in the Garrisons and he haveing nothing of Arreares to Clayme his pay being wholye expended in his necessarie Support & maintenance wee doe think fitt Some additionall allowance be made to his present pay as a reward of his former Services & for his future Encouragement in Such way as to you Shall seeme meete which wee recomend to your Care and remaine,

White Hall
12th of Sept. 1654

Yor loveing freind
Oliver P.

British Museum, Lansdowne MS. 823 fo. 286

His Hignesse Letter for the Right Honoble the Lord Deputye of Ireland and the rest of the Councell.

My lords & Gentlemen,

In our last Letters, wee sent unto yow Concerning Dr. Joseph Waterhouse dated the 12th of September last, for the reasons therein Expressed, wee desired his pay might bee made Equivalent wth 20 sls p diem. And our meaning and desire was and is that itt bee Soe made unto him from the last of his abatement thereof and soe forwarde, the way and Manner wee leave to yow, and remaine,

Yours, Oliver P.

White Hall: March 26th 1655

Canning and Wilberforce in 1824: an Unpublished Letter

DECEMBER 1824 WAS a critical period in George Canning's tenure of the Foreign Office. After overcoming opposition within the cabinet and laying his diplomatic groundwork, he announced Britain's intention to recognize the independence of Spanish America on the last day of the year. His action came 'in defiance of the Neo-Holy Alliance, as an endeavour to compete with the United States..., as a means of securing...trade, and, finally, as a protest against the French occupation of Old Spain'.¹ A key element in his planning had been the attitude of France, whose invasion of Spain in 1823 and continued military presence there seemed to portend a

¹H. Temperley, *The Foreign Policy of Canning 1822-7* (2nd edn., 1966), p. 132.

renewed Bourbon 'Family Compact', with the extension of French power into America. On 3 December Canning had asked Lord Granville, the newly-appointed ambassador at Paris, whether France would promise to evacuate Spain by a definite date. When he received word on 9 December of the French government's evasive reply, he pressed his colleagues for a prompt recognition of the insurgent republics. 'The great practical question for us', he wrote in a memorandum circulated on 14 December,

seems to be how, in the event of an actual incorporation of the resources of Spain with those of France, such an accession to the power of France can best be counteracted. I have no hesitation in saying that this must be by a separation of the resources of Spanish America from those of Spain.

The 'Die Hards' in the cabinet gave way on 15 December,¹ and the domestic phase of the battle was won. Exhausted and ill, Canning remained at home 'very unwell', the following day, but by 17 December he had revived sufficiently to write to Granville: 'The deed is done.... Spanish America is free; and if we do not mismanage matters sadly, she is English and *Novus saeculorum nascitur ordo*'.²

Canning had told Granville at the very beginning of his embassy that he wished to 'make a beginning of a close and... good understanding between us and France; on which, more than on any other political combination, the permanency of peace depends'.³ As this new stroke of policy might be expected to rouse indignation in Paris, he renewed his injunction to conciliate the French government: 'Now that it has done its work, I don't want to persecute Villèle [the French chief minister] with this question, nor to get any ill-humour into the discussion'. Granville was urged to renew his conversations with Villèle about the French withdrawal from Spain on an amicable basis.⁴

• On the very day that Canning was instructing Granville in how to ease the repercussions in France of British policy, William Wilberforce was writing to Canning with a suggestion that was likely to exacerbate Anglo-French relations. Although we do not have his letter to Canning, it is clear from the Foreign Secretary's response that Wilberforce was seeking to promote (through an unidentified 'friend') some sort of 'institution' or 'committee' among British subjects resident in Paris. It does not seem too bold a conjecture to suggest that this group would have concerned itself with the question of Abolition. Ever since the establishment early in 1823 of the Society for the Amelioration and Gradual Abolition of Slavery, Wilberforce had devoted all his attention and energy to that cause. Although his health, like Canning's, was not of the best, he had continued his interest in it even after he was no longer able to attend parliament. He can scarcely have realized just how ill-timed his request was.

¹ *Ibid.*, pp. 146-7.

² Canning to Granville, 17 Dec. 1824 (A. G. Stapleton, *George Canning and his Times* (1859), p. 41).

³ Canning to Granville, 15 Nov. 1824 (*ibid.*, p. 404).

⁴ Canning to Granville, 17 Dec. 1824 (*ibid.*, p. 412).

Canning and Wilberforce were friends—though not particularly intimate—and in the past Canning had given all the support that was politically and practically possible to the latter's anti-slavery efforts. Hence the amiable and reasonable tone of the response which he wrote to Wilberforce on 28 December. The answer was, none the less, a firm refusal of all co-operation or countenance. The interest of this hitherto unpublished letter¹ lies in Canning's deft handling of an influential but interfering public figure at a moment of international crisis. Distracted by the pressure of government business and by the recurrence of ill health, Canning takes the time to reply to one whom it would be both impolite and imprudent to keep waiting. Although within three days of an announcement which will place the most severe strain upon peaceful relations with France, he gives no hint of coming events, but confines his negative reaction to precedents and proprieties. Clearly piqued by the naïve intervention of impractical idealists, he still takes care to explain his motives in rejecting Wilberforce's project, so as to forestall any unauthorized continuation of the scheme. Canning, in this letter, made quite sure that no one would interrupt him as he 'called the New World into existence to redress the balance of the Old'.

W. D. GRIFFIN

Canning to Wilberforce, 28 December 1824

F.O. Decr. 28, 1824

My Dear Wilberforce,

First, a series of Cabinets which absorbed all my days—and next a fit of the Gout, which has turned my days into nights [sic]—have prevented me from sooner answering your letter of the 17th inst.

If your friend means by the countenance of the British ambr. at Paris, a formal request to be made by him to the French Govt. for leave to establish such an Institution in that Capital, I venture to assure you, without hesitation, that such a request would be met with a positive refusal.

But if it is supposed that a British ambr. in a Foreign Capital could extend countenance and protection to any meeting of his Countrymen, obnoxious to the Govt. of the Country, independently of that Govt. I entreat you to consider to what retaliations such an attempt might expose us.

The pretension itself is one which was among the most odious assumptions of Republican France during the War.—No other Country has ever put it forward. And assuredly we could not put it forward in Paris without making up our minds to French Committees sitting and debating in London.

These are the reflections which have occurred to me on reading your letter, and its Inclosure (which I return). I think it better to state them to you frankly, than to put you off more civilly with a general evasive answer.

Ever My Dear Wilberforce, Most Sincerely and faithfully Yours

Geo. Canning²

¹ Canning to Wilberforce, 28 Dec. 1824. In the author's possession.

² Wilberforce's enclosure (presumably a letter or circular from his 'friend') has not been recovered.

*The Full Name of Lloyd Jones: Reflections of
Nineteenth-Century Working-Class Religion
and Politics*

STUDENTS OF nineteenth-century British working-class history almost inevitably encounter the name of Lloyd Jones, whom the Webbs described as one of 'the more thoughtful working-men leaders'.¹ And only this short name for the man—no additional forename, abbreviation or surname, although Lloyd itself often forms part of Welsh surnames. None of his books, pamphlets, or plethora of articles indicate anything more. It is not strange then that the British Museum and Library of Congress catalogues and the entry on Jones in the *Dictionary of National Biography*² give only the forename Lloyd. And yet Jones possessed the additional first forename Patrick. What circumstances led him to conceal and even deny the name?

While Jones's forename Patrick can be firmly established, there is less evidence why he gave it up and why he, a man known for his probity, should deny its existence in 1875.

Since the answers relate to Jones's role in the British working-class movement, a sketch of this role may be useful. Born in Ireland of Welsh immigrant ancestry in 1811 and trained in fustian-cutting, he emigrated to Liverpool in 1827. Here he followed his craft, joined a trade union and before long became its secretary. He soon became much involved in Owenite activity. After an interlude in Salford where he helped to manage a co-operative store and free co-operative school,³ he rose rapidly in Owenite circles. At Salford he became their chief oratorical champion despite his youth. His erstwhile colleague Holyoake recalled that when a new challenger arose, 'it was Lloyd Jones to whom we all looked in such cases'.⁴ As Owenism shifted from working-class concerns to a religious and utopian emphasis, Jones was selected as one of the small group of 'Social Missionaries' sent out to evangelize the kingdom. He remained one of the last in the field when the programme was shut down in 1845,⁵

¹S. and B. Webb, *The History of Trade Unionism, 1666-1920* (rev. edn., 1920), p. 340.

²By George Jacob Holyoake, the foremost English co-operator, who was well acquainted with Jones's long career.

³W. C. Jones, 'Sketch of the Author', in P. L. Jones, *The Life, Times, and Labours of Robert Owen* (3rd edn., 1900), p. vi; Jones, *ibid.*, pp. 287-8; J. M. Ludlow, 'Some of the Christian Socialists of 1848 and the following years, II', *Economic Review*, iv (1894), 39-40 (hereafter cited as Ludlow).

⁴Quoted in 'The Eighteenth Annual Co-operative Congress...The Late Mr. Lloyd Jones', *Co-operative News* (Manchester), 19 June 1886.

⁵*New Moral World* (London, Manchester, Stockbridge), iv. 245-6 (26 May 1838); v. 520 (8 June 1839); vii. 1221 (16 May 1840); ix. 367 (12 June 1841); no

having become, in Holyoake's words, 'the foremost man on the social warpath'.¹

Lloyd Jones thus became well known in working-class circles. He also developed a deep commitment to the co-operative movement which continued until his death in 1886. An acknowledged co-operative leader,² he was chosen to give the inaugural address at the 1885 Co-operative Congress.³ Co-operation brought him into Christian Socialism, where his Owenite rationalism proved no impediment. For a time he managed the London co-operative store of the Christian Socialists, and then stumped the north of England on behalf of its cause.

Jones entered journalism through co-operative newspapers.⁴ In the eighteen-seventies he became Britain's foremost working-class journalist, unless his editor George Potter be reckoned an active member of that profession. Jones's leading articles for the *Bee-Hive* and *Industrial Review* from 1871 to 1878 brought his reputation to its peak.⁵ His later work in the *Newcastle Weekly* and *Daily Chronicle*, published by the co-operator Joseph Cowen, did not enjoy such prominence. While Jones wrote on co-operation in the *Bee-Hive*, *Co-operative News* and in other publications, he also gave much scope to trade unionism. Also, unlike many Owenites who preferred to address themselves to economic concerns, he moved towards political activism. He became the first Secretary of the Labour Representation League, 1869-72,⁶ and a member of the first Parliamentary Committee of the Trades Union Congress in 1871.⁷ In 1885 he stood for parliament as an independent radical at Chester-le-Street in a very under-

social missionaries were appointed for 1842, x. 384 (misnumbered 385) (28 May 1842); xi. 425 (17 June 1843); xii. 407 (8 June 1844); xiii. 367 (24 May 1845).

¹G. J. Holyoake, *Sixty Years of an Agitator's Life* (2 vols., 1892), i. 141.

²'From 1837 to his death in 1886 Jones was officially connected with the co-operative movement, and had a chief part in its organisation and development' (*D.N.B.*).

³P. L. Jones, *Inaugural Address delivered at the 17th annual Co-operative Congress held at Oldham, May 25, 26 & 27, 1885* (Manchester, n.d.).

⁴Testimonial Committee, *Lloyd Jones. Notice of his Life* (?1885), p. 10. While containing valuable information, this pamphlet is strewn with inaccuracies and must be used with caution.

⁵The Webbs have described Jones's *Bee-Hive* articles as 'uniformly distinguished by literary ability, exact knowledge of industrial facts, and shrewd foresight' (p. 341, n. 2). While the present writer feels that the quality of these articles is somewhat less uniformly distinguished than the Webbs suggest, their praise is still warranted. A contemporary judgment on Jones's reputation was given by James Fitzpatrick: 'In the [Industrial] Review of Dec. 7 I was favoured with the notice of Mr. Lloyd Jones, and it is something to be noticed by a gentleman whom the Trade Unionists of this country so deservedly respect, even if such notice is in the form of a castigation' ('The depression of trade', *Industrial Review*, 21 Dec. 1878).

⁶'Labour Representation League', *Bee-Hive*, 9 Nov. 1869; G. D. H. Cole, *British Working-Class Politics, 1832-1914* (1946), p. 50. A. W. Humphrey's *History of Labour Representation* (1912) is not worth consulting on Jones's role in the Labour Representation League.

⁷'The Annual Trade Union Congress', *Bee-Hive*, 11 March 1871.

financed campaign, and came in second to the Liberal whose party regularly carried the seat.¹ He died in 1886.²

The quality of Jones's life impressed his contemporaries, who found him one of the most agreeable of companions. Although in journalism words count, he often joined these with deeds. He showed not only a concern for people but a genuine regard for knowledge, building up more than one personal library, only to sell it because of his financial needs. He especially loved literature: Scots (for he had lived in Glasgow some years as a journalist, and had often visited Scotland as a speaker) and Irish as well as English. He could quote from memory authors read years previously and could supply an apposite quotation to drive home a point.³

The circumstances of his early life would seem to account for some of his later views. His father was an Irish nationalist who had participated in the Rebellion of 1798 and who subsequently embraced Roman Catholicism as an article of Irish nationalism.⁴ Hence when a son was born on the feast day of Ireland's greatest saint, nothing was more appropriate than to bestow the name Patrick upon the boy.⁵ His father hoped for a priestly career for the lad, who served for a time as a choir-boy.⁶ Jones implied that he accepted the Catholic faith until the age of fourteen.⁷ About this time his confidence in the miracle of the Mass was shaken by some incident now obscure, and his scepticism grew as he read Owenite writings. Shortly before leaving Ireland for England, he renounced Catholicism and was in turn disowned by his father.⁸

Lloyd Jones's dropping of his name Patrick must be seen in the light of his break with Catholicism, his acceptance of Owenite rationalism, his platform activities on behalf of Owenite socialism and his rationalism *vis-à-vis* Christian ministers. Obviously he could symbolize no more effectively his break with the Catholic past than by dropping his Catholic forename. Also, given the strong polemics of the platform, he would not

¹ *Parliamentary Election, 1885. Return of Charges made to Candidates*. H.C. 199 (1886). LII, 407; G. D. H. Cole, *A Century of Co-operation* (Manchester, n.d.), p. 195.

² Kate Jones to George Howell, Stockwell, Surrey, 23 May 1886 (George Howell Collection, Bishopsgate Institute, London); letter of George Philip Rugg, M.D., quoted in 'Mr. Lloyd Jones', *Co-operative News*, 29 May 1886.

³ G. Howell, 'Lloyd Jones', J. 3, in 'The Autobiography of a Toiler: with an Account of the Movements with which he was connected, of the Persons whom he met, of his Aspirations and Achievements during Fifty Years of active Political and Industrial Life', MS. 1898, George Howell Collection; Ludlow, p. 41.

⁴ [J. Cowen], 'The late Mr. Lloyd Jones', *Newcastle Weekly Chronicle*, 5 June 1886; Cowen's authorship can be established by an identical, shortened version attributed to him in the *Co-operative News* of the same date. He was in London as an M.P. and sent a weekly 'London Letter' to his Newcastle paper: as a co-operator he must have sent a copy of his Jones article to the *Co-operative News*. See also W. C. Jones, 'Sketch of the Author', p. vi; Ludlow, pp. 39-40.

⁵ [Cowen], 'The late Mr. Lloyd Jones'.

⁶ Ludlow, p. 40.

⁷ P. L. Jones, 'An electioneering story', *Bee-Hive*, 17 July 1875.

⁸ Ludlow, p. 40.

desire the encumbrance of a name which was bound to make him the target of sarcasm and irony.

But when did Jones's use of the forename Patrick cease? The evidence does not permit a precise answer. A letter probably written for hostile political purposes by Thomas Mottershead under a pseudonym in 1875 asserts that Jones changed his name in 1838.¹ But the letter contains inaccuracies relating to the dates when he renounced Catholicism and when he took to the Owenite platform, so that little confidence can be placed in this date, more especially since Jones published his first pamphlet in 1837 under his abbreviated name.²

Jones's forename Patrick appears on legal documents connected with his death and with that of his wife, which followed his own by about a week.³ And by this time Joseph Cowen, his employer and comrade in co-operation, had learned of it.⁴ But for all intents and purposes Jones had concealed his name of Patrick for decades. And although he had a reputation for integrity and even relinquished an excellent newspaper position in 1862 on conscientious grounds—he refused to write in favour of the Confederacy in the American Civil War⁵—he nevertheless publicly disclaimed the forename Patrick when he was 'accused' of owning it in 1875.⁶

His motives appear to have been political. In 1875 when many expected an election, Jones's candidacy at the Welsh constituency of Merthyr Tydvil was taken up by the local Magna Charta Association. His credentials involving both Welsh background and labour leadership were stressed. The *Western Mail* of Cardiff reported that 'so far, Mr. Lloyd Jones appears to be the leading favourite with the working class'.⁷ Jones himself did not lack interest in the seat, and considered entering the contest if the previous labour candidate chose not to fight the seat again.⁸

At this point the *Western Mail* received a letter from an alleged 'David Williams'—a Welsh name to eclipse that of Lloyd Jones—attacking Jones's political credentials at Merthyr Tydvil. The writer claimed that working men did not in fact support Jones and that Jones's writings on behalf of labour were nothing but bombast in the style of Dr. Johnson. Further, the letter asserted that Jones had been born in Ireland, raised a Catholic, and had then become a 'Secularist debater'. Moreover he had

¹David Williams to Editor, *Western Mail* (Cardiff), 12 June 1875.

²P. L. Jones, *A Reply to Mr. R. Carlile's Objections to the Five Fundamental Facts as laid down by Mr. Owen* (Manchester, 1837).

³Administrator's Oath and Bond of W. C. Jones for the estate of Patrick Lloyd Jones, 22 Dec. 1886, Estate Duty Office, Minford House, London; Certification of Issuance of Letters of Administration to W. C. Jones for the estate of Patrick Lloyd Jones, 24 Dec. 1886, Somerset House; certified copy of Entry of Death for Mary Jones, 31 May 1886, Somerset House.

⁴[Cowen], 'The late Mr. Lloyd Jones'.

⁵Jones to Charles Kingsley, Glasgow, 21 Apr. 1862 (British Museum, Add. MS. 41299 fo. 81); Ludlow, p. 41.

⁶P. L. Jones, 'An electioneering story'.

⁷'Election intelligence', *Western Mail*, 10 June 1875.

⁸P. L. Jones, 'An electioneering story'.

been born Patrick Lloyd and upon entering upon his Secularist career had changed this to Patrick Lloyd Jones. The writer concluded by recommending George Odger, secretary of the London Trades Council who had twice previously sought a seat in parliament, as an 'unpretentious, but yet sound thinker'.¹ The letter was potentially damaging. To good Welsh chapel-going Protestants, an Irish papist-turned-Secularist would be anathema. And to divest Jones of his ethnic surname helped to divest him of his political eligibility.

Unfortunately, a search for Jones's baptismal record, to confirm that he bore from the time of his birth the three names shown on various legal documents, has failed. Cowen's knowledge of the name, along with the documents, are likely to provide the strongest evidence obtainable regarding Jones's full name. Thus while it is possible that the man was born Patrick Lloyd, to which he added the surname Jones, it is much more likely that he was born Patrick Lloyd Jones and that the alternative can be dismissed as political axe-grinding.

Jones's reaction to the Williams letter is mendacious on the surface and on one point of substance. He acknowledged his Irish birth and then, as equivocally as possible, denied his early Catholic past. He denied all the rest. Moreover, he asserted that a study of the handwriting of the letter, now in the possession of the *Bee-Hive*, showed it to be identical with that of Thomas Mottershead, 'identified beyond the shadow of a doubt by half-a-dozen gentlemen intimately acquainted with it'. He added that postal authorities had discredited the 'David Williams' guise by returning to the sender through the dead letter office two letters he wrote in reply to Williams. Mottershead was working for Odger's candidacy in South Wales at the time.² He wrote to the *Bee-Hive* denying his authorship of the letter,³ to which editor George Potter appended a reply reasserting it to be Mottershead's and offering to submit it for examination 'to any fairly constituted body appointed to investigate the matter'.⁴

Why did Jones deny the assertions of the letter? Plainly he did not tell the truth about his Catholic childhood and ostensibly he was lying about his forename Patrick. But when the charges of the letter are examined closely it becomes apparent that he could honestly deny the rest. Neither had he been born Patrick Lloyd nor had he changed this to Patrick Lloyd Jones about 1838 in Manchester. And technically he had not been a 'Secularist debater'. For 'secularism' was not the same as Owenite rationalism, but a system evolved later by Holyoake, who coined the word in 1846.⁵ In fact, differences between Jones and Holyoake (which in one form or another were to last for decades) were evident by 1840 in the Owenite oath-taking

¹David Williams to Editor, *Western Mail*, 12 June 1875.

²P. L. Jones, 'An electioneering story'.

³T. Mottershead, 'An electioneering letter', *Bee-Hive*, 31 July 1875.

⁴*Ibid.*, editor's note.

⁵J. Ramsay MacDonald, 'George Jacob Holyoake,' *D.N.B. Supplement 1901-II*, pp. 291-2.

controversy. Holyoake, a purist, strongly condemned Jones and a second Social Missionary for taking the necessary legal oath as dissenting ministers in order to lecture on Sundays.¹ Moreover, even the spirit of the charge was much vitiated by Jones's reversion towards a general form of Christianity, while retaining a critical eye upon it as a result of his association with Christian Socialism and especially with F. D. Maurice.²

Almost certainly the reason why Jones denied the implications of the letter about his name lay in his wish to retain the initiative as against the Odger candidacy. The Williams or Mottershead letter was an appeal to religious and ethnic emotions. Jones was surely right to counter this unworthy strategy, especially since there were valid technical grounds for denying the charges, even if they did imply a truth about his forename which he wished the public not to know. Nor did they know it, as our major bibliographical works attest.

JOHN D. OSBURN

¹Holyoake, i. 141-2, ii. 292-4; J. McCabe, *Life and Letters of G. J. Holyoake* (2 vols., 1908), i. 53-8; F. Podmore, *Robert Owen: a Biography* (New York, 1924), pp. 520-7. Podmore gives the most satisfactory account of the oath-taking controversy.

²Ludlow, p. 42. Jones himself expressed his esteem for the Christian Socialist clergy along with his general critical approach in 'More bishops', *Industrial Review*, 10 Aug. 1878.

Historical News

THE FORTY-FIFTH Anglo-American Conference of Historians took place at the University of London on Thursday and Friday, 5 and 6 July 1973. Two general and eight sectional meetings were held either in the Beveridge Hall of the Senate House or in the Small Hall at the Institute of Education, by kind permission of the Director of that Institute. The total enrolment, excluding accompanying relatives, was 382, of whom 135 were from the United States, Canada and certain other countries of the Commonwealth. The Conference opened on the Thursday morning with a general meeting at which Professor A. P. Thornton (Toronto) gave a lecture on 'Imperialism in the 20th Century' as an introduction to the general theme of the Conference which was 'Empire'. Further papers on this theme were 'Styles and Sources in Commonwealth History' by Professor P. N. S. Mansergh (Cambridge); 'The Medieval Empire and the German Monarchy' by Mr. J. B. Gillingham (London); 'Faith and Empire: the Cross and the Crown in Portuguese Expansion (15th-18th centuries)' by Professor C. R. Boxer (London); 'James I and the Beginnings of Empire in America' by Professor D. B. Quinn (Liverpool); 'British Expansion in Asia in the 18th Century' by Dr. P. J. Marshall (London); 'British Policy and the Emergence of Communal Identity: Eastern Bengal and Assam, 1905-12' by Professor R. S. Wheeler (Claremont Men's College). Other papers were 'A New Approach to the Medieval Villager and his Society' by Professor J. A. Raftis (Toronto); 'British Popular Radicalism and the Press, 1815-50' by Professor J. H. Wiener (City University of New York). The closing meeting, over which the Director of the Institute presided, was addressed by three speakers, Lord Blake (Oxford), Lady Antonia Fraser, and Dr. N. J. Williams (Public Record Office), on the subject 'Biography'; Mr. J. Brooke (Royal Commission on Historical Manuscripts), Professor M. R. D. Foot (European Discussion Centre, Wilton Park) and Professor S. E. Koss (Columbia) were the chief speakers in the discussion which followed. There were buffet lunches and tea parties on both days of the Conference. The Conference dinner was held at the Hotel Russell on the Friday evening, when the toast of the members of the Conference from overseas was proposed by Mr. R. C. Latham (Cambridge), and Professor J. F. Larkin (De Paul) responded. An exhibition of historical works published in the United Kingdom since June 1972 was displayed in the Institute.

It was decided at the closing meeting to hold the usual short annual Conference next summer on Thursday and Friday, 4 and 5 July 1974.

* * * * *

Officials of the Boards of Trade, 1660-1870 by J. C. Sainty, the third volume in the series *Office-Holders in Modern Britain*, is now in the press. Work is in progress on the Admiralty.

A further volume of Le Neve: *Fasti Ecclesiae Anglicanae* is in the press, devoted to Canterbury, Rochester and Winchester, 1541-1857, by Mrs. Joyce M. Horn. Further volumes on Lincoln, 1066-1300, by Dr. D. E. Greenway, and York, 1541-1857, by Mrs. Horn, are in preparation.

* * * * *

Work has begun upon the *Victoria History of Cheshire*, which is financed jointly by the Leverhulme Trust and the Cheshire County Council. A further development of particular interest is the resumption of work upon the *Victoria History of Sussex*; the West Sussex County Council is providing funds for the employment of an Assistant who will be a member of the Institute's staff. Work continues upon Cambridgeshire, Essex, Gloucestershire, Middlesex, Oxfordshire, Shropshire, Somerset, Staffordshire, Wiltshire and Yorkshire East Riding.

* * * * *

As reported in Vol. XLV (1972) of the *Bulletin*, a central index of English episcopal *acta* was established at the Borthwick Institute of the University of York. In Spring 1973 the Council of the British Academy set up a Committee under the chairmanship of Professor C. R. Cheney to arrange for the editing and publishing of post-Conquest English episcopal *acta*. The Academy has assumed responsibility for the eventual publication of volumes of *acta* to be arranged by diocese. Dr. David M. Smith, of the Borthwick Institute, has been appointed General Editor. It is hoped that other scholars working in this field will themselves undertake to be editors or joint-editors within the framework of the whole scheme, in collaboration with the General Editor. Correspondence should be addressed to the Centre for Episcopal Acta, The Borthwick Institute of Historical Research, University of York, St. Anthony's Hall, York YO1 2PW.

* * * * *

The 1974 Congress of the International Commission for Maritime History will be held at the National Maritime Museum, Greenwich, on 6 to 12 July. The general theme will be 'Maritime Aspects of the American Revolution', and papers have been promised by British, American and French scholars. Particulars from The Secretary, British Committee 1974 Congress ICMH, National Maritime Museum, Greenwich, SE10 9NF.

Historical Manuscripts

MIGRATIONS

[The following is a select list of historical MSS. recently offered for sale by booksellers and auctioneers. Attention may particularly be drawn to *Bibliotheca Philippica*, new ser., no. 9, *French, Spanish and Greek Manuscripts and English Charters* (Sotheby & Co., 25.vi.1973). References to booksellers' catalogues are by name, number of catalogue, page and number, to auctioneers' catalogues by name, date of first day of sale, and number of lot.]

Miscellaneous Documents.

English before 1603.

Philippa of Flanders: document concerning her proposed marriage to Edward, afterwards Edward VI, [c. 1295]. (Sotheby & Co., 25.vi.1973, no. 2075.)

Hen. VI: 8 orders for payment addressed to the treasurer and officials in Normandy, 1430-49. (Sotheby & Co., 25. vi. 1973, no. 1981.)

Hen. VIII: copy of privy council letter [to Thomas Cranmer] requiring him to advance the payment of the tenth and subsidy, 26 Dec. 1544. (Sotheby & Co., 2. iv. 1973, no. 192.)

Edw. VI: letter requiring horses and horsemen to be made ready, 18 June 1547. (Sotheby & Co., 2. iv. 1973, no. 193.)

Mary, queen of Scots: letter to Lord Gray about her intention to return to Scotland, 10 Apr. 1561. (Sotheby & Co., 2. iv. 1973, no. 194.)

Eliz. I: letter to William Cecil about the difficulties of importers of wine and goods from France, 21 Dec. 1572. (Sotheby & Co., 2. iv. 1973, no. 195.)

English after 1603.

Rich, Sir Nathaniel: parliamentary diary, 6 Feb.-19 May 1626. (Sotheby & Co., 2. iv. 1973, no. 214.)

Coningsby, Thomas, 1st Earl: c. 150

letters to, 1690-1721. (Sotheby & Co., 5. ii. 1973, nos. 256, 258-60, 262, 264.)

Jurieu, Pierre: 9 letters to William Blathwayt when acting as a secret agent to William III, 1692-8. (Sotheby & Co., 25. vi. 1973, no. 1986.)

About 500 papers and letters deriving from the Mallalieu family relating to the English and German provinces of the Moravian Church, c. 1785-1860. (Sotheby & Co., 5. ii. 1973, no. 349.)

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